

BEFORE THE  
UNITED STATES DEPARTMENT OF TRANSPORTATION  
OFFICE OF HEARINGS  
WASHINGTON, D.C.

**ORIGINAL**

IN THE MATTER OF: )  
 ) Docket No. FMCSA-2007-0089  
ACCENT MOVERS, INC., )  
 ) (Southern Service Center)  
Respondent )  
 )

TRANSCRIPT OF HEARING

VOLUME 3

WEDNESDAY, JUNE 17, 2009

DEPT OF TRANSPORTATION  
DOWNTOWN  
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THE EVIDENTIARY HEARING in the above-styled and numbered cause was heard before the Honorable Richard C. Goodwin on the 17th of June, 2009, reported by Karen L. Shelton, CSR/RDR/CRR, of Capital Reporting Company, at the offices of the National Transportation Safety Board, 624 Six Flags Drive, Suite 150, Arlington, Texas, beginning at 11:10, when were present on behalf of the respective parties:

A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:

HONORABLE RICHARD C. GOODWIN  
U.S. DEPARTMENT OF TRANSPORTATION  
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FOR THE RESPONDENT:

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ALSO PRESENT:

Mr. Shane Gibson  
Ms. Joanne Cisneros

# Capital Reporting Company

Page 303

## I N D E X

1			
2			Page
3	APPEARANCES .....		302
4	AGENCY'S REBUTTAL WITNESSES	Direct	Cross
5	JEFFREY LANGLOSS	306	
6	MARIO LEAL	329, 350	336, 352
7	PROCEEDINGS CONCLUDED .....		359
8	REPORTER'S CERTIFICATE .....		360

9

## AGENCY'S EXHIBITS\*

11	No.	Description	Admitted
12	26	Accent Movers Website Accessed on 5/12/09	311
13			
	28	Able Bodied Movers Webpage	311
14			
	29	Accent Movers Website Accessed on 6/9/09	313
15			
	31	Able Bodied Movers Webpage dated 2/24/09	314

16

17 (\*Exhibits Retained by the Court)

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1 P R O C E E D I N G S

2 \* \* \*

3 THE COURT: Do you want to call your  
4 next witness?

5 MS. JACKSON: Yes.

6 THE COURT: Unless there were  
7 preliminary matters.

8 MS. JACKSON: Actually I do have one  
9 short preliminary matter, but I would call --  
10 Mr. Langloss has stepped out. If you wouldn't mind if  
11 we went through my quick preliminary matter first. I  
12 just want to make sure my records accurately reflect  
13 the Court's records.

14 THE COURT: You're assuming that my  
15 records are correct.

16 MS. JACKSON: I'm assuming your records  
17 are correct, your Honor.

18 THE COURT: That's a dangerous game.

19 MS. JACKSON: I know we went over  
20 yesterday what was not admitted, but I'd just like to  
21 make a quick check of what I have record of having not  
22 been admitted.

23 THE COURT: Here's what I show is not  
24 admitted. Everything else you can assume is admitted.  
25 Your Exhibit 4 is not admitted, which I show is an

1 e-mail dated 5/17/07.

2 MS. JACKSON: Okay.

3 THE COURT: Exhibit 13, which on the top  
4 shows Booked Search Results is not admitted.

5 MS. JACKSON: Okay.

6 THE COURT: 15, which on the top says  
7 Type of Contact, Telephone, Oral Interview Form.

8 MS. JACKSON: Okay.

9 THE COURT: 16, which is a pleading  
10 titled First Request for Admissions. 17, the first  
11 page is a transmittal letter from Mr. Gamboa's law firm  
12 which appears to be respondent's answers to first  
13 request for admissions. 18, which is the first set of  
14 interrogatories. 21, which is the first request for  
15 production of documents. 26, which purports to be  
16 Accent Movers' website dated 5/12/09. And 28, which  
17 purports to be Able Bodied Movers' web page dated  
18 5/12/09. And I show 28 exhibits by the agency and no  
19 exhibits to this point from the respondent.

20 MS. JACKSON: Thank you, your Honor.  
21 Those match up with my records.

22 THE COURT: There's a shock.

23 (Jeffrey Langloss was called as a  
24 witness.)

25 THE COURT: Stand and raise your right

1 hand.

2 (Whereupon, the witness was sworn in by  
3 the Court.)

4 THE COURT: Be seated and state your  
5 first name and spell your first and last name for the  
6 record, please.

7 THE WITNESS: Jeffrey Langloss,  
8 J-e-f-f-r-e-y L-a-n-g-l-o-s-s.

9 THE COURT: Counsel?

10 JEFFREY LANGLOSS,  
11 having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. JACKSON:

14 Q Mr. Langloss, could you tell us how you're  
15 employed.

16 A I'm employed as the federal program manager  
17 for the Texas Division of Federal Motor Carrier Safety  
18 Administration.

19 Q What is a federal program manager?

20 A We oversee the federal program which deals  
21 with everything from compliance reviews, safety, new  
22 entrant audits, cases, inspections. We assign work,  
23 read and determine whether complaints need to be  
24 assigned out to an investigation.

25 Q Now, how long have you been the federal

1 program manager in Texas?

2 A Since May of 2007.

3 Q How long have you been with Federal Motor  
4 Carrier?

5 A Twelve years.

6 Q And what position did you have when you first  
7 started with Federal Motor Carrier?

8 A I was a safety investigator in the state of  
9 Kentucky. I spent just shy of ten years doing that. I  
10 then also taught for the national training center. I  
11 teach compliance review and new entrant course for  
12 them.

13 Q Now, have you received any sort of training  
14 with regard to your duties as a safety investigator?

15 A Yes.

16 Q Could you briefly tell us about that.

17 A I went through a two-week compliance review  
18 course when I first came on, and I did that. I went  
19 through the North American Standard which teaches you  
20 how to do the roadside inspections that you also do,  
21 terminal inspections. That's during compliance  
22 reviews.

23 Q Let me stop you for a second. By roadside  
24 inspection, what are you inspecting?

25 A The vehicles themselves, a commercial motor

1 vehicle, which would be any vehicle with a gross  
2 vehicle weight rating of 10,001 pounds or more.

3 Q Now, when you are -- as a safety  
4 investigator, are you also required to be certified as  
5 an inspector of commercial motor vehicles?

6 A Yes, you are.

7 Q And in order to become a certified inspector,  
8 do you have to do inspections of commercial motor  
9 vehicles?

10 A Yes, you do.

11 Q And how many do you have to do to maintain  
12 that certification?

13 A A minimum of 32.

14 Q For -- over what period of time?

15 A Every fiscal year, which is October 1 to  
16 September 30th.

17 Q When did you first become certified as an  
18 inspector of commercial motor vehicles?

19 A 1997.

20 Q Have you maintained that inspection  
21 certification since then?

22 A Yes, I have.

23 Q Okay. Have you inspected many commercial  
24 motor vehicles?

25 A Yes, I have.



1 Q Are you familiar with the general  
2 configurations of various types of commercial motor  
3 vehicles?

4 A Yes.

5 Q Now, a pickup truck, large pickup truck with  
6 a 30-foot box trailer, is that generally going to be in  
7 the classification of a commercial motor vehicle?

8 A Define large pickup.

9 Q Something that we would be talking about a  
10 Ford F-350, a Dodge dually.

11 A Yes, that with a 30-foot trailer would go  
12 over the 10,001 or more pounds for a combination.

13 Q And would that constitute a commercial motor  
14 vehicle?

15 A If it's in commerce, yes.

16 Q Now, as -- have you had any involvement in  
17 investigating Accent Movers in relationship to this  
18 case?

19 A Yes, I have.

20 Q As part of your investigation, have you  
21 monitored the website of Accent Movers as well as the  
22 website of Able Bodied Movers?

23 A Yes, I have.

24 Q Now, I'm going to ask you if you'll turn to  
25 Tab 26.

1 A (Witness complies.)

2 Q Could you tell us what Tab 26 is.

3 A Tab 26 is screen prints of Accent Movers'  
4 website that I went into and made on May 12th of '09.

5 Q Okay. And can you take a look at the  
6 pagination and the various pages for Exhibit 26.

7 MR. GAMBOA: Excuse me, Counsel. Your  
8 Honor, we're going to object to this. She has called  
9 this witness as a rebuttal to any direct testimony  
10 given by Mr. Gibson. We've already discussed 26 in  
11 great length. So if she's got any rebuttal on it, then  
12 let's do it. But otherwise, if we're just going to go  
13 over it again, that's not rebuttal testimony.

14 THE COURT: Well, it was referred to by  
15 other witnesses. I'm not going to allow extensive  
16 inquiry on this, but it was discussed by some of the  
17 other witnesses as well as witness for the respondent.

18 MS. JACKSON: Thank you.

19 THE COURT: So at this point it'll be  
20 overruled.

21 MS. JACKSON: Thank you, your Honor.

22 BY MS. JACKSON:

23 Q Does that printout accurately reflect what  
24 you saw on Accent Movers' website in May of 2009?

25 A Yes, it does.

1 MS. JACKSON: Claimant would move for  
2 the admission of Claimant's 26.

3 THE COURT: I just paginated this.  
4 There are five pages. Your position, Mr. Gamboa?

5 MR. GAMBOA: We have no objections.

6 BY MS. JACKSON:

7 Q And I would ask you to turn to Tab 28.

8 THE COURT: Just a minute. The day  
9 changed. 26 for identification is received into  
10 evidence as Agency 26.

11 MS. JACKSON: Thank you, your Honor.

12 BY MS. JACKSON:

13 Q Could you identify what Exhibit 28 is.

14 MR. GAMBOA: Your Honor, if she's going  
15 to call this witness not rebuttal but for  
16 identification, we'll stipulate to Exhibit 28.

17 MS. JACKSON: I am asking for the  
18 admission of 28.

19 MR. GAMBOA: We'll stipulate to it.

20 THE COURT: Okay. 28 for identification  
21 is received into evidence as 28. I show that that has  
22 six pages, and I've paginated in pencil.

23 MS. JACKSON: Thank you.

24 BY MS. JACKSON:

25 Q And for the purposes of the record, would you

1 state what the date is of the printout on 28 which is  
2 the Able Bodied website.

3 MR. GAMBOA: Objection, your Honor. The  
4 document speaks for itself. It's been in --

5 THE COURT: The document shows 5/12/09,  
6 so it speaks for itself.

7 MS. JACKSON: Fair enough.

8 BY MS. JACKSON:

9 Q During the period of time of your monitoring  
10 of Accent Movers' website, how many times did you check  
11 it?

12 THE COURT: Check what?

13 MS. JACKSON: The website.

14 THE WITNESS: Three or four.

15 BY MS. JACKSON:

16 Q Okay. And have you noticed changes in that  
17 website over that period of time?

18 A Yes.

19 Q Okay. I'm going to hand you another exhibit  
20 which is going to be marked as 29.

21 THE COURT: Let me just say while you're  
22 doing that, what I do is I make a spreadsheet of the  
23 exhibits. And what I've asked my staff to do when they  
24 post the exhibits on DMS, to make the spreadsheet the  
25 first exhibit. The left-hand column would be the

1 number of the exhibit. The middle is my description of  
2 what the document is, and it's only for identification  
3 purposes. Then I have a column that says "ID" and a  
4 column that says "In," which should be rather obvious.  
5 And I do that so if we adjourn the hearing and you  
6 review the documents on DMS and realize that I've  
7 failed to accurately reflect whether an exhibit is  
8 admitted, you can bring it to our attention, we can  
9 correct the record.

10 MR. GAMBOA: Yes, sir.

11 THE COURT: But that's my methodology.

12 MS. JACKSON: Thank you, Judge.

13 BY MS. JACKSON:

14 Q I have handed you Claimant's Exhibit 29.

15 MR. GAMBOA: Your Honor, we'll stipulate  
16 to 29 also.

17 MS. JACKSON: Thank you. I am asking  
18 for the admission of 29.

19 THE COURT: Which I show consists of  
20 five pages. Exhibit 29 for identification is received  
21 into evidence as Exhibit 29.

22 MS. JACKSON: And I'm going to hand you  
23 what has been marked as Claimant's 31.

24 THE COURT: For a minute I thought you  
25 didn't give the Court a copy.

1 MR. GAMBOA: We'll stipulate to 31.

2 MS. JACKSON: And claimant is asking for  
3 the admission of 31.

4 THE COURT: And I show that this  
5 consists of three pages. Exhibit 31 for identification  
6 is received into evidence as Exhibit 31.

7 MS. JACKSON: Thank you, your Honor.

8 BY MS. JACKSON:

9 Q Over the period of time that you've been  
10 monitoring Accent Movers' website, have you ever seen  
11 an indication on that website that Accent Movers no  
12 longer conducts interstate moves of household goods?

13 A They did take off the link to the interstate  
14 move part that you can go to. However, under the  
15 service area it has still continually said they perform  
16 moves all over the country.

17 Q And the monitoring of the website goes up  
18 through June of 2009?

19 A Yes, beginning of this month.

20 Q Now, with regard to Able Bodied Movers, did  
21 you go on that website?

22 A Yes, I did.

23 THE COURT: Hold on. Did I miss  
24 something? I have no Exhibit 30.

25 MS. JACKSON: There is no Exhibit 30,

1 your Honor. I apologize. I misnumbered, but I had  
2 already numbered and photocopied.

3 THE COURT: As long as -- you don't want  
4 to drive the Court crazy. I have enough to worry  
5 about. Okay. So there is no -- okay. All right. I'm  
6 sorry.

7 BY MS. JACKSON:

8 Q The Able Bodied Movers website, were you able  
9 to access that website?

10 MR. GAMBOA: Your Honor, at this time we  
11 make an objection. That's not proper rebuttal. Able  
12 Bodied Movers is not a party of interest in this matter  
13 at all. We've already had testimony from the witnesses  
14 that Able Bodied Movers is no longer in existence,  
15 et cetera. So this is not proper rebuttal. We've  
16 already admitted that it's not in business. We make an  
17 objection accordingly.

18 MS. JACKSON: We are going to the  
19 credibility of Mr. Gibson's testimony where he states  
20 Able Bodied Movers is not in existence. He also stated  
21 the phone numbers are no longer answered. Mr. Langloss  
22 will testify that he has observed this website, it is  
23 current as of today, and the phone number is in fact  
24 answered as of today.

25 THE COURT: To that extent I'll allow

1 the testimony, but I don't want to get too much farther  
2 afield.

3 MS. JACKSON: And that is the extent of  
4 the testimony.

5 THE COURT: So to the extent, I will  
6 allow the testimony.

7 BY MS. JACKSON:

8 Q When did you access the Able Bodied website  
9 first?

10 A First time was February.

11 Q February 2009?

12 A Yes, 2009.

13 Q Did you check it again in May?

14 A Yes, I have.

15 Q Were you able to access the website at that  
16 time?

17 A Yes, I was.

18 Q Able to click on the links, obtain -- click  
19 on the Estimate link, it opens?

20 A Yes, I was.

21 Q Did you try looking at it today?

22 A Yes.

23 Q Were you able to get to the Able Bodied  
24 Movers website?

25 A Yes.



1 Q Okay. Anything on it indicating it's out of  
2 business?

3 A There is nothing indicating that.

4 Q Were there telephone numbers on that website?

5 A Yes.

6 Q Did you try to call any of the telephone  
7 numbers for Able Bodied Movers?

8 A I called both phone numbers listed on their  
9 home page, front page of the website.

10 Q Okay. And what happened when you made that  
11 call?

12 A The (972) 660-4433 phone number, when I  
13 called it, it was answered "Accent Movers." I could  
14 not quite understand who it was. I asked who it was.  
15 They said it's Accent and Able Bodied Moving.

16 Q And when did you make that phone call?

17 A About 10:15 this morning.

18 Q Now, you said there was a second phone number  
19 on the website. What is that phone number?

20 A There's a (800) 299-1700. This goes to the  
21 Texas Department of Transportation One Stop Shop is  
22 what they call it where you can get answers.

23 MS. JACKSON: Thank you. Your Honor, I  
24 had -- I believe Mr. Gamboa had stipulated to the  
25 admission of Claimant's 25, and it has been admitted.

1 But I had promised the Court that Mr. Langloss could  
2 testify as to how those records came into the  
3 possession of Federal Motor Carrier.

4 THE COURT: Actually it didn't get  
5 admitted. And part of what you said is correct. Well,  
6 maybe I did. But what I -- I do show that it's  
7 admitted. But I think in fairness, to complete the  
8 record in response to Mr. Gamboa's objection, I think a  
9 foundation needs to be laid.

10 MS. JACKSON: I will be happy to do so,  
11 your Honor.

12 BY MS. JACKSON:

13 Q As part of your investigation with regard to  
14 Accent Movers, did you have occasion to contact the  
15 Texas Department of Transportation?

16 A Yes, I did.

17 Q And what was your purpose in contacting them?

18 A I have worked with them on several different  
19 household good complaints and companies, and I  
20 contacted Michael Dewbre over there who I had worked  
21 with.

22 Q Do you recall the spelling of Mr. Dewbre's  
23 last name?

24 A No.

25 Q Thank you. Now, you said that you've been

1 involved with household goods --

2 THE COURT: For the record, it appears  
3 for the court reporter that it's D-e-w-b-r-e. I could  
4 tell by the look on her face this was going to be --

5 MS. JACKSON: I was planning on doing  
6 that after the testimony, your Honor, but thank you  
7 very much.

8 BY MS. JACKSON:

9 Q You said that you have been involved with  
10 Texas DOT on various investigations involving household  
11 goods moving companies. Is it your understanding that  
12 Texas D-O-T or Texas DOT has any involvement in the  
13 investigation of household goods motor carriers?

14 MR. GAMBOA: Objection as to the  
15 question, the form of the question. No proper  
16 foundation, "your understanding."

17 THE COURT: Yeah, rephrase the question.

18 BY MS. JACKSON:

19 Q What has been your involvement with Texas DOT  
20 in the investigation of household goods motor carriers?

21 A There have been complaints that they have  
22 received that have been interstate moves that they have  
23 forwarded to us and asked us to help with. And then  
24 there have been things that we have come across that  
25 we've also contacted them to see what complaints they

1 have received on the carrier to help in our  
2 investigation as well.

3 THE COURT: In light of the objection,  
4 I'll allow testimony to the extent it involves  
5 information within the knowledge of the Federal Motor  
6 Carrier, but any inferences as to what the Texas DOT  
7 may or may not know would be inadmissible because of  
8 the hearsay character of it.

9 MS. JACKSON: Thank you, your Honor.

10 BY MS. JACKSON:

11 Q With regard to Accent Movers, you said that  
12 you contacted Mr. Dewbre?

13 A Yes.

14 Q What was your purpose in contacting him?

15 A To see if they had received any complaints  
16 over a two-year period of time from this movement on  
17 Accent Movers.

18 Q Okay. Approximately when did you contact  
19 Mr. Dewbre?

20 A About mid-May of 2009.

21 Q Okay. Now, you said you were interested in a  
22 two-year period of time involving Accent Movers. What  
23 period of time did you request information?

24 A I asked for the year 2005 through the end of  
25 the year 2007.

1 Q Did Mr. Dewbre forward to you any information  
2 with regard to Accent Movers?

3 A Yes, he did.

4 Q And how did he forward that information to  
5 you?

6 A Electronically through e-mail.

7 Q Did it come as an e-mail or an attachment to  
8 an e-mail?

9 A It was an attachment to an e-mail.

10 Q And could you look at Claimant's 25, please.

11 A (Witness complies.)

12 Q Eliminating the first page, which is the  
13 certification page, could you look through that  
14 document, which is a multipage document.

15 THE COURT: 60 pages.

16 BY MS. JACKSON:

17 Q Now, have you had an opportunity to look  
18 through that document?

19 A I've looked at several of the pages, not all  
20 of them.

21 Q Could you just thumb through it.

22 A (Witness complies.) Okay.

23 Q Now, when you received this e-mail with the  
24 attached document from Mr. Dewbre, did you open that  
25 e-mail?

1           A     Yes.

2           Q     Did you go through the document that was  
3 attached?

4           A     I actually printed the document and went  
5 through it, yes.

6           Q     Is Claimant's 25 the document you received  
7 from Investigator Dewbre?

8           A     Yes.

9           MS. JACKSON: Thank you. I have nothing  
10 further on that.

11           MR. GAMBOA: Is she doing that for the  
12 qualification to admit 25? If so, I've got an  
13 objection. She hasn't proven it yet.

14           THE COURT: Well, I show that it was  
15 admitted, but you had an objection and I suggested at  
16 the time, if memory serves me, that it was appropriate  
17 to lay a proper foundation as to how it was received.

18           MR. GAMBOA: I'll reurge my objection as  
19 to proper foundation has not been laid for the  
20 certification of this document to take it out of the  
21 realm of either hearsay or make it a governmental  
22 record or a business record.

23           THE COURT: What I'm going to have the  
24 two of you do is brief that issue.

25           MS. JACKSON: Okay.

1 MR. GAMBOA: If you want the issue  
2 briefed --

3 THE COURT: And I think the way to do  
4 that is the agency has filed a summary judgment, and my  
5 suggestion is that why don't you -- the only word I can  
6 think of is codicil, which is inappropriate, but do  
7 a -- I don't want you to completely redo summary  
8 judgment. You may just want to brief that issue  
9 separately.

10 MR. GAMBOA: Your Honor --

11 MS. JACKSON: Let me ask --

12 MR. GAMBOA: Excuse me, Counsel. I did  
13 some research on that last night. The question of the  
14 summary judgment and the question of response to  
15 summary judgment is moot at this time and has been  
16 waived because we have had an evidentiary hearing.

17 THE COURT: Right, I understand that,  
18 but --

19 MR. GAMBOA: But if you want us to brief  
20 the law, I'll be more than happy to brief the law but  
21 not in the context of the summary judgment because I  
22 don't want to waive my objection that it is now moot  
23 because we've had the evidentiary hearing.

24 THE COURT: I understand, but if you  
25 recall, before the hearing I indicated that the summary

1 judgment would be reserved. I understand the legal  
2 argument. At the beginning of the hearing you could  
3 argue that the summary judgment is moot because we've  
4 had a hearing, but it would be easy with a pencil to  
5 recaption this -- I'm just drawing a blank. But she  
6 could refile the motion at the end of the hearing  
7 asking for judgment on the record, which essentially  
8 would be the same thing. I used to do that.

9 MR. GAMBOA: Well, I've done that too.

10 THE COURT: Summary judgment. At the  
11 end of her case file for a judgment on the record and  
12 at the end of the case file for another judgment.

13 MR. GAMBOA: Well, I was expecting you  
14 to instruct us to do that, to each file ours with a  
15 brief accordingly. I have no problems with that. If  
16 you want to put it in that context, that's the normal  
17 way we usually -- that it's done. Okay.

18 THE COURT: In either case I'd like you  
19 to brief the issue as to the admission of this. And  
20 the problem as I see it is it's an electronic record.  
21 If we had it sealed with a ribbon -- in Maryland you do  
22 a triple seal that's virtually self-authenticating.

23 MS. JACKSON: Well, your Honor --

24 THE COURT: I think there is probably a  
25 presumption in favor of the fact that it is a business



1 record. And again, it's an administrative proceeding,  
2 so the rules of evidence are relaxed. And as I  
3 indicated before, it's the records of the Department of  
4 Transportation, the State of Texas. I'm not going to  
5 consider violations under Texas law. And I think I  
6 understand why the agency wants it introduced, to show  
7 the viability of several corporate entities.

8 MS. JACKSON: Well, your Honor, I need  
9 to do a couple of things here then. I have a couple  
10 more questions for Mr. Langloss, but I need to make  
11 sure I have a clear record on this.

12 First of all, when we discussed this  
13 yesterday, at least my notes indicate that we went  
14 through the Court's statement that the Court was not  
15 going to consider it for prior violations.

16 THE COURT: Right.

17 MS. JACKSON: I agreed we weren't  
18 introducing it for that. And my memory is that  
19 Mr. Gamboa at that point stipulated to the introduction  
20 of that document and the Court then admitted it. And I  
21 would ask to go back to the record on that.

22 MR. GAMBOA: On the condition of what  
23 the Court stated.

24 THE COURT: Yeah, okay.

25 MS. JACKSON: That it would not be

1 looked at as history.

2 THE COURT: At this point in the hearing  
3 I'm not going to consider it for any violations  
4 contained therein. I will review it in the context of  
5 whether or not there are some corporate viability. But  
6 if there was a violation of any kind under Texas law,  
7 I'm not going to consider that.

8 MR. GAMBOA: That was my agreement,  
9 Judge.

10 THE COURT: Okay.

11 MS. JACKSON: And so you are stipulating  
12 to the admission of 25?

13 THE COURT: On the Court's condition.

14 MR. GAMBOA: On the Court's condition  
15 that the Court just articulated.

16 THE COURT: Yeah.

17 MS. JACKSON: I have no problems with  
18 that. We're not asking for it to be considered as  
19 history.

20 THE COURT: I know the two of you love  
21 to brief, but you don't have to brief me on that.

22 MS. JACKSON: Well, and that was going  
23 to be my issue because the other piece that I have is I  
24 have the investigator on call to come authenticate this  
25 document for the Court if I need to do that.

1 THE COURT: I don't think you need to.  
2 Again, to reiterate, the Court has admitted Exhibit 25.  
3 In reviewing Exhibit 25, the Court will not consider  
4 any allegations, violations, or purported violations  
5 contained therein in terms of this case. I will review  
6 it only in the context of issues that are relevant and  
7 material to the issues in the federal case. I don't  
8 care what state law is or certainly in this case  
9 whether there were any state violations of any kind, if  
10 any.

11 MR. GAMBOA: I'm smiling because your  
12 counterpart in the state of Texas three weeks ago in an  
13 argument with TX DOT said, "I don't want to hear post  
14 office law in this court." That's what he was  
15 referring to, the federal agency law.

16 THE COURT: I like that.

17 MR. GAMBOA: He said, "No, Texas law is  
18 good enough, no post office law here."

19 THE COURT: That's interesting, post  
20 office law. You need to adopt that for your future --

21 MS. JACKSON: I would probably  
22 substitute another agency in there, but I'll behave  
23 myself while we're on the record.

24 THE COURT: Okay. Go ahead.

25 MS. JACKSON: With that understanding

1     that we are admitting 25 for those purposes, I have no  
2     further questions for this witness.

3                   THE COURT: All right. Do you have any  
4     questions, Mr. Gamboa?

5                   MR. GAMBOA: No further questions.

6                   THE COURT: Witness excused? He's been  
7     here for two days.

8                   MS. JACKSON: He is excused, your Honor.

9                   THE COURT: I'm going to instruct you,  
10    sir, not to discuss your testimony with anyone prior to  
11    the conclusion of the hearing. You're free to go.  
12    Although, as I understand it, you may or may not be  
13    traveling with the agency counsel, so -- but that's  
14    your problem.

15                   MS. JACKSON: And I'm going to ask to  
16    very briefly recall Mario Leal.

17                   THE COURT: Mr. Leal, you've been  
18    recalled. I'm going to remind you that you're still  
19    under oath.

20                   THE WITNESS: Yes, sir.

21                   THE COURT: Counsel?

22                   MARIO LEAL,  
23    having been previously sworn, testified as follows:

24                   DIRECT EXAMINATION

25    BY MS. JACKSON:

1           Q     Mr. Leal, we're going back to the compliance  
2 review completed of Accent Movers back in I believe May  
3 of 2007. Is that correct?

4           A     Yes.

5           Q     How many people were present with you during  
6 that compliance review that were either Federal Motor  
7 Carrier or some other employee of the government?

8           A     At the beginning it was me, and I had two  
9 other investigators that came in for one of them to  
10 pick up some documents and the other one stayed  
11 outside. But they came into the building.

12          Q     Okay. So --

13          A     Three.

14          Q     Okay. Let me go back through this. When you  
15 came into Accent Movers and you first met Mr. Gibson,  
16 who was with you?

17          A     Nobody.

18          Q     Okay. At some point you're joined by one or  
19 two people.

20          A     Yes.

21          Q     Did both of them come into the building?

22          A     They came into the building through the main  
23 entrance, and one of them waited outside and the other  
24 one inside was next -- was sitting next to me.

25          Q     Okay. And where were you when this person

1 came in and sat next to you?

2 A With Mr. Gibson.

3 Q And were you in the process of reviewing his  
4 records? At what stage in the compliance review was  
5 this?

6 A The exact part of the compliance review I  
7 don't recall, but it was during the checkup, during  
8 reviewing -- either asking questions or reviewing  
9 documents.

10 Q And when this person came in, how long were  
11 they there?

12 A It is my understanding five minutes, the  
13 most.

14 Q These people, were they employees of Federal  
15 Motor Carrier?

16 A Yes.

17 Q Okay. Do you -- could you give us their  
18 names?

19 A Yes, Praxedis Flores.

20 Q Could you spell that, please?

21 A P-r-a-x-e-d-i-s F-l-o-r-e-s. The second  
22 investigator's name was Diego Cienega.

23 Q And who actually came into the room where you  
24 and Mr. Gibson were?

25 A Mr. Flores, yes.

1 Q Did Mr. Flores ask any questions of  
2 Mr. Gibson?

3 A I don't recall him asking anything. He might  
4 have asked me a couple of things in front of  
5 Mr. Gibson.

6 Q What -- if he was asking you questions, did  
7 it relate to Accent Movers?

8 A He might -- he might have asked him how  
9 everything was going, and that was it.

10 MR. GAMBOA: Objection to the response  
11 as speculation.

12 THE COURT: I'm going to sustain the  
13 objection as to "he might have."

14 BY MS. JACKSON:

15 Q Do you have any recollection of Mr. Flores  
16 asking any questions as part of the compliance review  
17 of Accent Movers?

18 A I don't.

19 Q Okay. And who reviewed the records of Accent  
20 Movers?

21 A I did.

22 Q Did Mr. Flores participate in that review of  
23 records?

24 A We -- I probably talked to -- I did talk to  
25 Mr. Praxedis about what I was encountering. Maybe I

1 did tell him some of the violations that I had  
2 encountered, and that was it. But as far as  
3 Mr. Praxedis participating in the compliance review at  
4 any time, no, he didn't.

5 Q The written statement that was prepared that  
6 we talked a lot about yesterday, who prepared that  
7 document?

8 A I did.

9 THE COURT: Which written statement?

10 MS. JACKSON: Let me go back to the  
11 exhibits. I want to say -- Exhibit 11. Could you take  
12 a quick look just to make sure we're all on the same  
13 page?

14 THE COURT: I think, to make the record  
15 clear, I suggest that you may want to -- it's not  
16 actually -- when you say written statement, that  
17 implies to me that it's handwritten. So you may want  
18 to --

19 BY MS. JACKSON:

20 Q The typed statement in Exhibit 11 signed by  
21 Mr. Gibson --

22 A Yes.

23 Q -- and you testified a lot about that  
24 yesterday. Who prepared that document?

25 A I did.



1 Q Did Mr. Flores have any participation in  
2 preparing that?

3 A I don't recall him actually seeing the  
4 document. No, he didn't.

5 Q And when this document was handed to  
6 Mr. Gibson, who handed it to him?

7 A I did. It was during the closeout of the  
8 compliance review.

9 Q Was Mr. Flores present during the closeout of  
10 the compliance review?

11 A No.

12 Q Was any other Federal Motor Carrier Safety  
13 investigator or employee present during the compliance  
14 review?

15 A No.

16 Q And going back to Exhibit 12, the handwritten  
17 note by Mr. Gibson, was Mr. Flores talking to  
18 Mr. Gibson about the employment of Mark Moreno?

19 A No.

20 Q Who was talking to Mr. Gibson about the  
21 employment of Mr. Moreno?

22 A I did.

23 Q Was Mr. Flores present when this was going  
24 on?

25 A I don't recall him being there, no.

1           Q     Thank you. I have nothing further on that  
2     issue.

3                     And, Mr. Leal, I'm going to ask you a  
4     question just going back to yesterday because I made an  
5     error on how I asked the question and I need to correct  
6     that for the purposes of the record.

7                     We were talking about your experience with  
8     commercial motor vehicles and we talked about the motor  
9     vehicle combination that you had observed out at Accent  
10    Movers and I asked you if it would be greater than  
11    10,000 pounds. Would it be greater than 10,001 pounds?

12           A     Yes.

13                     MR. GAMBOA: We're going to object to  
14     this line of question. She's trying to rehabilitate  
15     her own witness.

16                     MS. JACKSON: Actually I'm trying to  
17     rehabilitate my own question, your Honor. I had  
18     thought I had asked it one way, found out I didn't.

19                     THE COURT: I'm going to sustain the  
20     objection at this time.

21    BY MS. JACKSON:

22           Q     Well, then let me ask the question this way.  
23     You observed the trailers at -- box trailers at Accent  
24     Movers.

25           A     Yes.

1 Q And you're familiar with the trucks that were  
2 being used to pull those trailers.

3 A Yes.

4 Q You are familiar with commercial motor  
5 vehicles and the various combinations thereof.

6 A Yes, I am.

7 MR. GAMBOA: We're going to make an  
8 objection, your Honor. This witness was called as a  
9 rebuttal witness. She is now trying another tactic  
10 through another back door to rehabilitate prior  
11 testimony.

12 THE COURT: And let me just point out,  
13 the reg is what the reg is.

14 MS. JACKSON: Correct.

15 THE COURT: So I'm not going to be too  
16 concerned if he misquotes the reg. The Court's going  
17 to review the reg.

18 MS. JACKSON: And Mr. Langloss has also  
19 already testified that it was greater than 10,001. It  
20 was my mistake when I stated it.

21 THE COURT: I know. The transcript will  
22 stand for itself. But if it's -- if it's rebuttal,  
23 Counsel's right and I'll sustain the objection.

24 MS. JACKSON: All right, your Honor.

25 Thank you. I have nothing further for this witness.

1 THE COURT: Mr. Gamboa?

2 CROSS-EXAMINATION

3 BY MR. GAMBOA:

4 Q Mr. Leal, most of the questions that Counsel  
5 just asked you, you kept repeating "Don't recall."

6 A Yes.

7 Q So let's go down those questions then that  
8 you don't recall. If you don't recall a particular  
9 answer that you just gave Counsel for a question, do I  
10 understand that your memory has not been as accurate as  
11 you would like it to be?

12 A No, sir. I did begin my answer with "Don't  
13 recall," but the answer was specific to what happened.  
14 Mr. Praxedis and Mr. Flores -- Cienega were there only  
15 for five minutes at the most.

16 Q But you also ended up with "but I really  
17 don't recall."

18 A Yes, I did.

19 Q Okay. See, when you say something like that  
20 to a lawyer, it means entirely a different matter. So  
21 I'm just trying to clarify for the record.

22 A Yes, sir.

23 Q Let's go down. Mr. Flores, what does  
24 Mr. Flores do?

25 A He's a safety investigator for Federal Motor

1 Carrier Safety.

2 Q Have you dealt with him before this date?

3 A On the date of the compliance review?

4 Q Yes.

5 A No.

6 THE COURT: By "this date," you mean  
7 today's date?

8 MR. GAMBOA: No, no. I'm sorry.

9 THE COURT: That's what I thought you  
10 meant. I wanted to make sure the record reflects it.

11 MR. GAMBOA: All of my questions have to  
12 do with the date of compliance review.

13 BY MR. GAMBOA:

14 Q Had you dealt with him before that date?

15 A No.

16 Q Did you call him and tell him to meet you  
17 there at Accent?

18 A The previous day, yes.

19 Q Why?

20 A Because this is a special -- this was a  
21 strike force. That's what it's called. It's a  
22 household goods strike force. Usually what we do is we  
23 go out and --

24 Q You've answered the question. Let me ask the  
25 question, you answer it. It's a strike force, which to

1 my way of thinking says there's multiple people  
2 involved.

3 A Yes.

4 Q And that's in fact what happened here, isn't  
5 it?

6 A Yes.

7 Q What was the strike force about?

8 A It's about identifying compliance reviews.

9 Q Okay. You've made it. Now, the only  
10 compliance review that's a subject before this Court is  
11 one, isn't it?

12 A Yes.

13 Q But how many people showed up at this strike  
14 force?

15 A At this -- at this location, only myself.  
16 And like I explained earlier, later on Mr. Flores and  
17 Mr. Cienega, they showed up to Accent Movers' location  
18 at Accent.

19 Q We seem to be having a communication problem  
20 here. Let me straighten it out. When I'm asking you  
21 how many people showed up, I mean how many people  
22 eventually showed up at Accent on this strike force.

23 A Three.

24 Q Just give me a number. And you're included  
25 in that number?

1 A Yes.

2 Q Okay. And Mr. Flores is there for what  
3 reason?

4 A He's to pick up some documents that we had  
5 talked about the previous night.

6 Q And what were those documents?

7 A It's -- usually sometimes we share  
8 worksheets.

9 Q No, no. I'm not asking sometimes. I'm  
10 asking specifically to this incident, what documents?

11 A Worksheets.

12 Q Whose worksheets?

13 A Mine.

14 Q Wait a minute. He's to meet you at Accent to  
15 pick up your worksheets?

16 A Yes, blank worksheets that sometimes we  
17 share.

18 Q Are you two not in the same office?

19 A No.

20 Q Where is he -- where is Mr. Flores located?

21 A He's out of the Laredo office but works out  
22 of Uvalde, Texas.

23 Q I see. And so Mr. Flores comes out of  
24 Uvalde, Texas, you came out of Laredo, and you meet in  
25 Fort Worth, Texas. Is that a fair deal?

1 A Yes.

2 Q Did you discuss with Mr. Flores what he was  
3 going to do when he got up here?

4 A No.

5 Q Who told you to call Mr. Flores?

6 A I had talked to him the previous night.

7 Q My question was, who told you to call  
8 Mr. Flores?

9 A During the compliance review?

10 Q Your supervisor, did someone tell you to call  
11 Mr. Flores?

12 A No. It's a very common practice. If we're  
13 in the area, we usually talk to the different  
14 investigators.

15 Q Yes, but you're not in Mr. Flores's area.

16 A I'm in Fort Worth.

17 Q You're in North Texas.

18 A Yes, that's -- when we're out deployed to a  
19 certain area, either Dallas, Houston, and we're working  
20 the same area, we usually talk to each other.

21 Q What was Mr. Flores working?

22 A He was working on a --

23 Q Let me finish the question, please.

24 A I'm sorry.

25 Q What was Mr. Flores working against Accent?



1 A Against?

2 Q Yes.

3 A I don't know. I don't know. Can you repeat  
4 your question?

5 Q Yes. What was Mr. Flores working? What type  
6 of work was he doing against Accent that you would call  
7 him?

8 MS. JACKSON: Your Honor, I'm going to  
9 object to this. It assumes facts not in evidence.  
10 Witness has not testified that Flores was doing  
11 anything against Accent Movers.

12 THE COURT: I'm going to sustain it  
13 because my recollection -- he hasn't made any  
14 implication Mr. Flores was up here at the place -- I  
15 think you can explore it from a little different  
16 direction and get where you want to go.

17 MR. GAMBOA: I'll try, your Honor,  
18 certainly.

19 THE COURT: Let me ask. So you were --  
20 you were on the -- you knew that you were going to go  
21 to Accent Movers.

22 THE WITNESS: Yes, that was my  
23 assignment, your Honor.

24 THE COURT: And they were located -- I'm  
25 not familiar with Texas. Are they in the -- is Haltom

1 City in the greater Dallas area?

2 THE WITNESS: Yes. Probably their  
3 assignments, they might have been in this area.

4 THE COURT: Wait. Just listen to the  
5 question. So Haltom City, Texas, is in the greater  
6 Dallas area for somebody who's not a Texan?

7 MR. GAMBOA: Excuse me, your Honor.  
8 It's not. It's in the Fort Worth area.

9 THE COURT: See. I consider Fort Worth  
10 in the Dallas area.

11 MR. GAMBOA: That'll get you tarred and  
12 feathered around here.

13 THE COURT: Okay. So Haltom City is in  
14 the Fort Worth area. Is that correct?

15 THE WITNESS: Yes.

16 THE COURT: Greater metropolitan area.

17 THE WITNESS: Yes.

18 THE COURT: And Mr. Flores was in this  
19 general geographical area working on another case as  
20 far as you know?

21 THE WITNESS: Yes.

22 THE COURT: And do I understand your  
23 testimony that you work out of Laredo?

24 THE WITNESS: That's correct.

25 THE COURT: And he works out of --

1 THE WITNESS: Uvalde, Texas.

2 THE COURT: But when the two of you know  
3 that you're in the same general geographical area, you  
4 frequently will talk to each other?

5 THE WITNESS: Yes, that's what we  
6 usually do.

7 THE COURT: So you were not surprised  
8 that he showed up at Accent Movers.

9 THE WITNESS: No.

10 THE COURT: And he would not have been  
11 surprised if you showed up where he was working.

12 THE WITNESS: No, because in this  
13 scenario I had talked to him the previous night about  
14 coming to where I was working.

15 THE COURT: Was he going to come to  
16 assist you with your investigation of Accent Movers, or  
17 was he coming for another reason?

18 THE WITNESS: No, he was going to pick  
19 up the worksheets that I had created.

20 THE COURT: Is that what's Exhibit 11?

21 THE WITNESS: No, it's -- it's not here.  
22 It's a worksheet that sometimes we create just to  
23 facilitate in collecting some of the documents that  
24 we're reviewing.

25 THE COURT: Why was he picking the

1 sheets up?

2 THE WITNESS: Because I had  
3 created them.

4 THE COURT: But -- I understand you had  
5 created them, but what was he going to do with them  
6 when he picked them up?

7 THE WITNESS: He was going to look at it  
8 and maybe use it for his investigations.

9 THE COURT: Of?

10 THE WITNESS: He had a different  
11 assignment.

12 THE COURT: Okay.

13 THE WITNESS: The two of them, the two  
14 investigators had different assignments. They were  
15 doing different checkups on different companies.

16 THE COURT: So he was working a case  
17 unrelated to Accent --

18 THE WITNESS: Exactly.

19 THE COURT: -- Able or --

20 THE WITNESS: Exactly.

21 THE COURT: -- whatever the other  
22 company was.

23 THE WITNESS: Yes, your Honor.

24 THE COURT: Mr. Gamboa?

25 BY MR. GAMBOA:

1 Q Then why was he going through Accent's files?

2 A I don't recall him looking at the cabinet or  
3 anything like that.

4 Q But you don't recall that, do you?

5 A He -- he did not.

6 Q You're sure?

7 A Yes.

8 Q Mr. -- and how long did Mr. Flores stay  
9 there?

10 A Five minutes, the most.

11 Q I see. How old is Mr. Flores?

12 A 50, 55.

13 Q Would you consider him your supervisor or  
14 your equal?

15 A He's an investigator. I have my supervisor.

16 Q I see. And the other person, Mr. -- you  
17 called him Diego?

18 A Yes.

19 Q What was the last name?

20 A Cienega.

21 Q Okay. Let me refer to him as Diego.

22 A Yes.

23 Q Mr. Diego, where is he from?

24 A He's from -- he's assigned to the Laredo  
25 field office and works out of Del Rio, Texas.

1           Q     Now, for the Court's information, Uvalde is  
2 northwest of Laredo --

3           A     Yes.

4           Q     -- about 150 miles, somewhere around there.

5           A     Yes.

6           Q     And Del Rio is right at the very tip of the  
7 southern end next to Padre Island.

8                   THE COURT: I know where Del Rio is. I  
9 actually had a case there, a case that never went to  
10 hearing, and I spent four days trying to figure out how  
11 to get there. My recollection is, it is right on the  
12 Mexican border.

13                  MR. GAMBOA: Right there. The great  
14 state of Acuna, Coahuila. Wolfgang -- Wolfman Jack,  
15 when you and I were in high school, used to broadcast  
16 from there on WW something Chicago, but out of  
17 Coahuila, Del Rio.

18                  THE COURT: WLS?

19                  MR. GAMBOA: Yes. I used to hear  
20 Wolfman Jack all over the United States when I was a  
21 kid.

22                  THE COURT: Just remember, she's getting  
23 paid to write this down.

24                  MR. GAMBOA: I'm sorry.

25                  THE COURT: See, now you know the

1 history of Wolfman Jack.

2 BY MR. GAMBOA:

3 Q Mr. Diego, what was his title?

4 A He's a safety investigator.

5 Q As you are?

6 A Yes.

7 Q Okay. Did you call him the night before and  
8 tell him you were going to be at Accent?

9 A No.

10 Q How did he know you were going to be at  
11 Accent?

12 A Because the assignments came through our  
13 supervisor.

14 Q And who was the supervisor?

15 A Santos Pecina.

16 THE COURT: Would you spell that,  
17 please?

18 THE WITNESS: S-a-n-t-o-s P-e-c-i-n-a.

19 BY MR. GAMBOA:

20 Q And Santos, did he come up with you?

21 A No.

22 Q Okay. How old a gentleman is Santos?

23 A Late 30s.

24 Q Okay. Now, Diego, what does Diego do?

25 A He's a safety investigator. He does

1 compliance reviews.

2 Q Then why did he meet you at Accent?

3 A Because he was driving with Mr. Flores.

4 Q So it was just a matter of convenience?

5 A Yes.

6 Q During the time that you were talking,  
7 allegedly talking to Mr. Gibson, where were Mr. Flores  
8 and Diego in the building?

9 A Mr. Cienega was outside, and Mr. Flores, he  
10 was inside.

11 Q Did you keep your eyes on them during that  
12 time, or could they have walked out to other areas of  
13 the building?

14 A I didn't keep an eye on Mr. Cienega. He  
15 was -- I know he was outside.

16 Q And -- but you didn't keep an eye on  
17 Mr. Flores either, did you?

18 A No.

19 Q You don't think that they could have been  
20 going through file cabinets?

21 MS. JACKSON: Your Honor, I'm going to  
22 object to speculation.

23 MR. GAMBOA: I'll withdraw the question.  
24 I'll withdraw the question. You're right.

25 BY MR. GAMBOA:



1 Q Did you and Mr. Flores and Mr. Diego, did  
2 y'all talk about Accent after the meeting?

3 A After the meeting, no. Maybe we -- there's a  
4 chance that we could have talked about it the week  
5 after, once at the field office, because we still have  
6 to provide just an explanation to our supervisor what  
7 went on during the week of the strike force. So there  
8 is a chance that I had mentioned it.

9 Q But you don't recall?

10 A No.

11 Q Did you and Mr. Flores and Mr. Diego talk  
12 about Accent after you had the meeting with Mr. Gibson  
13 on Accent's property?

14 A Can you repeat the question?

15 Q Did you and Mr. Flores and Mr. Diego talk  
16 about Accent and the meeting that y'all had with Accent  
17 while you were on Accent's property?

18 A Yes.

19 Q And what was the gist of that conversation?

20 A I probably say something like --

21 Q No, I don't want you to guess. If you don't  
22 know --

23 A The exact conversation I don't recall, sir.

24 Q Okay. Did it have to do with Accent?

25 A Yes.

1 Q Did it have to do with the investigation of  
2 this particular compliance problem?

3 A Yes.

4 Q Okay. And if I understand correctly,  
5 Mr. Flores, Mr. Diego, and yourself, you're interested  
6 in interstate commerce moves. Is that correct?

7 A Yes, sir.

8 Q Not intrastate.

9 A Not intra, yes.

10 MR. GAMBOA: No further questions.

11 REDIRECT EXAMINATION

12 BY MS. JACKSON:

13 Q Your conversation with Mr. Flores and  
14 Mr. Cienega, how long did that last, to your memory?

15 A Less than a minute.

16 Q Did either Mr. Cienega or Mr. Flores have any  
17 responsibility as part of the strike force for the  
18 review of Accent Movers?

19 A Not at all, no.

20 Q Did they have their own assignments?

21 A Yes.

22 Q Other household goods motor carriers?

23 A Yes.

24 Q Now, this worksheet that you talked about,  
25 when it was being picked up, was it a blank worksheet

1 or a filled-out worksheet?

2 A I had to print it off my computer.

3 Q Okay. But did it have -- is this a template  
4 for other people to use in their investigations or  
5 something you had filled out for an investigation you  
6 completed?

7 MR. GAMBOA: Objection. That's a  
8 leading question. This is her witness.

9 THE COURT: Overruled.

10 MR. GAMBOA: Thank you, your Honor.

11 THE WITNESS: I had prepared the form  
12 just for my advantage to facilitate in recording some  
13 of the documents we collect. And we'd talk about the  
14 things we use during the compliance reviews, and  
15 sometimes the investigators want to use those forms.  
16 So I don't mind providing a copy or getting ideas of  
17 the work I do.

18 BY MS. JACKSON:

19 Q Okay. So the purpose in giving these  
20 worksheets up, did it have anything to do with the  
21 Accent Movers investigation?

22 A No.

23 MS. JACKSON: Okay. Thank you. I have  
24 nothing further.

25 THE COURT: Court has to ask a question.

1 MR. GAMBOA: Oh, okay.

2 THE COURT: So I understand, when you go  
3 on investigations, you take a computer?

4 THE WITNESS: Yes.

5 THE COURT: Government issued?

6 THE WITNESS: Yes, sir.

7 THE COURT: And a printer?

8 THE WITNESS: Yes, sir.

9 THE COURT: Government issued?

10 THE WITNESS: Yes, sir.

11 THE COURT: I can't get either of them.

12 I just want to -- now I know where the money is in this  
13 agency, and it's not in my office. Mr. Gamboa?

14 RECROSS EXAMINATION

15 BY MR. GAMBOA:

16 Q Is this a laptop you're talking about?

17 A Yes.

18 Q Okay. And where is the printer?

19 A Next to me.

20 Q A separate printer?

21 A Yes.

22 Q And you carry it with you?

23 A Yes.

24 Q Where did you set it up at Accent?

25 A I set it up on the floor.

1 Q Where?

2 A On the floor in front of Mr. Gibson's desk.

3 Q I see. You had talked about just now on  
4 redirect by Counsel that this was -- you were part and  
5 Mr. Flores and Mr. Diego were part of a strike force.  
6 What other carriers did you hit on or visit on May --

7 MS. JACKSON: Your Honor, I'm going to  
8 object on relevance grounds.

9 THE COURT: I'm more concerned about  
10 whether divulging the information might impact someone  
11 who's not a party to the case.

12 MR. GAMBOA: I'll rephrase it so it  
13 doesn't.

14 THE COURT: I would be happier if it was  
15 more generic.

16 BY MR. GAMBOA:

17 Q Did you visit any other carrier, interstate  
18 carriers, on the day that you visited Accent?

19 A No, sir.

20 Q So you're saying it was a strike force.

21 A Yes.

22 Q What day of the week did you visit Accent?

23 A I need to look at a calendar.

24 Q Was it -- well, it was during the working  
25 days, wasn't it?

1 A Yes, sir.

2 Q Is there a possibility that you could have  
3 gone to other carriers during that week also in the  
4 northern district of Texas?

5 A I did visit other -- I'm sorry.

6 Q In the northern district of Texas?

7 MS. JACKSON: Your Honor, again, I'm  
8 going to object. This is beyond the scope of the very  
9 limited testimony.

10 THE COURT: Overruled.

11 THE WITNESS: I'm sorry. Yes.

12 THE COURT: Restate the question.

13 BY MR. GAMBOA:

14 Q Did you visit any other carriers during that  
15 week in the northern district of Texas?

16 A Yes.

17 Q Approximately how many?

18 A One. One more other than Accent Movers.

19 Q Okay. And was that also with a compliance  
20 problem?

21 A Yes. They had --

22 MR. GAMBOA: That's it. Thank you.

23 THE COURT: Anything else?

24 MS. JACKSON: No, your Honor.

25 THE COURT: Again, I'm going to instruct

1 you that you're still under oath. You're excused.

2 Please don't discuss your testimony with anybody prior  
3 to the conclusion of the hearing.

4 THE WITNESS: Yes, sir.

5 THE COURT: You're excused.

6 MS. JACKSON: And, your Honor, that  
7 concludes the rebuttal witnesses that I intend to call.

8 THE COURT: Mr. Gamboa, anything else?

9 MR. GAMBOA: We're through, your Honor.

10 THE COURT: I mentioned this earlier,  
11 but as we go through the -- well, first of all, the  
12 transcript should be available two weeks or so. I will  
13 get the original exhibits admitted. Would you be kind  
14 enough to ensure that the copy book has all the  
15 exhibits? Because that's what Mr. Liebowitz is going  
16 to work off of.

17 MS. JACKSON: Yes, your Honor.

18 THE COURT: It'll be about two weeks  
19 when the transcript gets to my office. If the motor  
20 carrier administration's experience is like the FAA's  
21 experience, sometime this year you'll get a copy of the  
22 transcript. What I'd like you to do, Ms. Jackson, is  
23 when you get a copy of the transcript in your office,  
24 like you to call Mr. Gamboa and let him know that you  
25 got the transcript.

1           Now, Mr. Gamboa, the agency gets a copy  
2   because they pay for it. The transcript is posted on  
3   the Internet in DMS. When this nice lady sends it to  
4   the court reporting service, they bring it to our  
5   office and they also bring a copy to docketing.  
6   Docketing will then post it on the internet.

7           What I'd like the two of you to do,  
8   Ms. Jackson, once you get the transcript, check with  
9   Mr. Gamboa, see where he is on the transcript, see if  
10  the two of you can work out a briefing schedule. Now,  
11  my general rule is 15, 15, and 5. I'm not wedded to  
12  that. If you need more time, if you two can agree on  
13  it, then do a scheduling order, mail it to me, I'll  
14  sign it. If you can't, then I'll do what I do best,  
15  issue orders.

16           MS. JACKSON: Would it be acceptable to  
17  the Court for me to send that by e-mail? We had  
18  discussed that was the easiest way when I'm traveling.

19           THE COURT: Yeah, that's fine. And,  
20  Mr. Gamboa, I know that you've got a schedule that's  
21  quite intensive and I'm sure the agency does as well,  
22  so if the two of you agree that you need three weeks or  
23  four weeks, that's fine. The agency normally briefs  
24  first, the respondent briefs second, and then the  
25  agency gets a rebuttal. Anything within reason,



1 anything the two of you agree on the Court will accept.

2 I want to bring your attention back to the  
3 Williamson Transport case because as we go through, as  
4 we've gone through this case, there are elements of  
5 that case that I think may have -- may impact this.  
6 And I want the two of you to read that case and in your  
7 respective briefs address any issues you feel are  
8 relevant to the issues in this case. If there aren't  
9 any, then there aren't any.

10 MR. GAMBOA: Would the Court recite for  
11 me the cite again, because I ran out of ink and had to  
12 go to red at that moment and my red wasn't getting  
13 ready to write.

14 THE COURT: Well, it's going to cost you  
15 extra.

16 MR. GAMBOA: Oh, I see.

17 THE COURT: It's Williamson Transport --  
18 give me a second. I've got it. Actually if you buy  
19 the transcript, it's in there. I'm just trying to give  
20 you a hard time.

21 MR. GAMBOA: No, I have my own --

22 THE COURT: This young lady's got to --  
23 she's trying to get out of her bicycle and buy herself  
24 a car. It's Williamson Transport C-o period, Inc.,  
25 Docket No. FMCSA-2004-17247.

1 MR. GAMBOA: 17247. Okay. I've got  
2 that.

3 THE COURT: Now, if you go into  
4 regulations.gov and type that, it should take you to  
5 the pleadings through my decision. And what I don't  
6 recall is whether when the Office of General Counsel  
7 reviewed and issued their opinion, whether that also  
8 goes in the DMS. Do you recall?

9 MS. JACKSON: The opinion coming out of  
10 the assistant administrator? Yes, that decision on  
11 review is on dockets.

12 THE COURT: Okay. The reason this is  
13 important, Mr. Gamboa, is I held for the agency in that  
14 case. I was overruled by the Office of General  
15 Counsel. And the agency has gone back to the Office of  
16 General Counsel asking the secretary to reverse in this  
17 case it would have been her opinion. So you need to  
18 read my opinion. You need to read the secretary's  
19 reversal. And I don't know what the status is at this  
20 point, but you may want to read the pleadings. I know  
21 there's been a motion filed to set aside the reversal  
22 of my decision. And at that point I've lost track of  
23 what's going on.

24 MS. JACKSON: I believe it is the  
25 current status, your Honor, that there has been a

1 petition for reconsideration filed with the final order  
2 of this as to the administrator.

3 THE COURT: But I think it's got  
4 implications in this case. And to your case,  
5 Mr. Gamboa, if the secretary sticks to their position,  
6 I've got a serious question as to whether we've got a  
7 federal program. May be a state program administered  
8 by the feds. That's why I want the two of you to work  
9 out your own briefing schedule.

10 MR. GAMBOA: Yes, sir.

11 THE COURT: Anything else that we need  
12 to do?

13 MS. JACKSON: I don't believe so, your  
14 Honor. I am checking the second copy of the exhibit  
15 book as we speak.

16 THE COURT: We can go off the record.

17

18 (Proceedings concluded at 12:13 p.m.)

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1 STATE OF TEXAS

2 COUNTY OF TARRANT

3 REPORTER'S CERTIFICATE

4 HEARING IN RE ACCENT MOVERS, INC.

5 VOLUME 3

6 JUNE 17, 2009

7

8 I, the undersigned Certified Shorthand  
9 Reporter in and for the State of Texas, certify that  
10 the facts stated in the foregoing pages are true and  
11 correct.

12 I further certify that I am neither  
13 attorney or counsel for, related to, nor employed by  
14 any parties to the action in which this testimony is  
15 taken and, further, that I am not a relative or  
16 employee of any counsel employed by the parties  
17 hereto or financially interested in the action.

18 SUBSCRIBED AND SWORN TO under my hand and  
19 seal of office on this the 22nd day of June, 2009.

20

21



Karen L. Shelton, CSR, RDR, CRR

22

Texas CSR 7050, Exp. 12/31/10

23

24

25

A			
<b>able</b> 303:13,15 305:17 309:22 312:2 314:20 315:8 315:8,11,14,20 316:8,15,18,23,23 317:7,15 344:19 <b>above-styled</b> 301:17 <b>Accent</b> 301:5 303:12 303:14 305:16 309:17,21 310:3,24 312:10 314:10,11 317:13,15 318:14 320:11,17,22 321:2 329:2,15 331:7,17 331:19 334:9,23 337:17 338:17,18 338:22 339:14 340:25 341:6,11,21 343:8,16 344:17 347:8,11 348:2 349:2,12,16,16,24 350:18 351:21 352:24 353:18,22 354:18 360:4 <b>Accent's</b> 345:1 349:13,17 <b>accept</b> 357:1 <b>acceptable</b> 356:16 <b>access</b> 315:9 316:8,15 <b>Accessed</b> 303:12,14 <b>accurate</b> 336:10 <b>accurately</b> 304:12 310:23 313:7 <b>action</b> 360:14,17 <b>ACUFF</b> 302:16 <b>Acuna</b> 346:14 <b>address</b> 357:7 <b>adjourn</b> 313:5 <b>administered</b> 359:7 <b>Administration</b> 302:10 306:18 <b>administration's</b> 355:20	<b>administrative</b> 302:3 325:1 <b>administrator</b> 358:10 359:2 <b>admission</b> 311:2,18 313:18 314:3 317:25 324:19 326:12 <b>admissions</b> 305:10 305:13 <b>admit</b> 322:12 <b>admitted</b> 303:11 304:20,22,24,24,25 305:4 313:8 315:16 317:25 318:5,7 322:15 325:20 327:2 355:13 <b>admitting</b> 328:1 <b>adopt</b> 327:20 <b>advantage</b> 351:12 <b>afield</b> 316:2 <b>agency</b> 302:8 305:18 311:10 323:4 325:6 327:15,22 328:13 352:13 356:1,21,23 356:25 358:13,15 <b>AGENCY'S</b> 303:4,10 <b>ago</b> 327:12 <b>agree</b> 356:12,22 357:1 <b>agreed</b> 325:17 <b>agreement</b> 326:8 <b>ahead</b> 327:24 <b>allegations</b> 327:4 <b>allegedly</b> 348:7 <b>allow</b> 310:15 315:25 316:6 320:4 <b>American</b> 307:19 <b>answer</b> 336:9,12,13 337:25 <b>answered</b> 315:21,24 317:13 337:24 <b>answers</b> 305:12 317:22	<b>anybody</b> 355:2 <b>apologize</b> 315:1 <b>APPEARANCES</b> 303:3 <b>appears</b> 305:12 319:2 <b>appropriate</b> 322:16 <b>Approximately</b> 320:18 354:17 <b>area</b> 314:15 340:13 340:15,19,20 342:1 342:3,6,8,10,14,16 342:19 343:3 <b>areas</b> 348:12 <b>argue</b> 324:3 <b>argument</b> 324:2 327:13 <b>Arlington</b> 301:23 <b>articulated</b> 326:15 <b>aside</b> 358:21 <b>asked</b> 312:23 317:14 319:23 320:24 331:4,8 334:5,10,18 336:5 <b>asking</b> 311:17 313:17 314:2 324:7 326:18 330:8 331:3,6,16 338:20 339:9,10 358:16 <b>assign</b> 306:22 <b>assigned</b> 306:24 345:24 <b>assignment</b> 341:23 344:11 <b>assignments</b> 342:3 344:14 347:12 350:20 <b>assist</b> 343:16 <b>assistant</b> 358:10 <b>assume</b> 304:24 <b>assumes</b> 341:9 <b>assuming</b> 304:14,16 <b>attached</b> 321:24 322:3	<b>attachment</b> 321:7,9 <b>attention</b> 313:8 357:2 <b>attorney</b> 360:13 <b>audits</b> 306:22 <b>authenticate</b> 326:24 <b>available</b> 355:12 <b>Avenue</b> 302:6,11
			B
			<b>back</b> 325:21 329:1,2 329:14 332:10 333:16 334:4 335:10 357:2 358:15 <b>beginning</b> 301:23 314:19 324:2 329:8 <b>behalf</b> 301:24 <b>behave</b> 327:22 <b>believe</b> 317:24 329:2 358:24 359:13 <b>best</b> 356:14 <b>beyond</b> 354:8 <b>bicycle</b> 357:23 <b>blank</b> 324:5 339:16 350:25 <b>Board</b> 301:22 <b>Bodied</b> 303:13,15 305:17 309:22 312:2 314:20 315:8 315:12,14,20 316:8 316:23 317:7,15 <b>book</b> 355:14 359:15 <b>Booked</b> 305:4 <b>border</b> 346:12 <b>box</b> 309:6 334:23 <b>brief</b> 322:24 323:8,19 323:20 324:15,19 326:21,21 <b>briefed</b> 323:2 <b>briefing</b> 356:10 359:9 <b>briefly</b> 307:16 328:16 <b>briefs</b> 356:23,24 357:7 <b>bring</b> 313:8 356:4,5

<p>357:2  <b>broadcast</b> 346:15  <b>building</b> 329:11,21  329:22 348:8,13  <b>business</b> 315:16  317:2 322:22  324:25  <b>buy</b> 357:18,23  <b>B-300</b> 302:12</p> <hr/> <p style="text-align: center;"><b>C</b></p> <p><b>C</b> 301:19 302:1,4  304:1  <b>cabinet</b> 345:2  <b>cabinets</b> 348:20  <b>calendar</b> 353:23  <b>call</b> 304:3,9 311:15  317:6,11,16,22  326:24 337:16  340:5,7,10 341:6  347:7 355:7,24  <b>called</b> 305:23 310:8  317:8,13 335:8  337:21 345:17  <b>Capital</b> 301:20  <b>car</b> 357:24  <b>care</b> 327:8  <b>carrier</b> 302:10  306:17 307:4,7  318:3 320:1,6 329:7  330:15 333:12  337:1 353:17  355:20  <b>carriers</b> 319:13,20  350:22 353:6,18  354:3,14  <b>carry</b> 352:22  <b>case</b> 309:18 324:11  324:12,18 327:5,7,8  342:19 344:16  346:9,9 353:11  357:3,4,5,6,8  358:14,17 359:4,4  <b>cases</b> 306:22  <b>cause</b> 301:18</p>	<p><b>center</b> 301:5 302:11  307:10  <b>certain</b> 340:19  <b>certainly</b> 327:8  341:18  <b>CERTIFICATE</b>  303:8 360:3  <b>certification</b> 308:12  308:21 321:13  322:20  <b>certified</b> 308:4,7,17  360:8  <b>certify</b> 360:9,12  <b>cetera</b> 315:15  <b>chance</b> 349:4,8  <b>changed</b> 311:9  <b>changes</b> 312:16  <b>character</b> 320:8  <b>check</b> 304:21 312:10  312:12 316:13  356:8  <b>checking</b> 359:14  <b>checkup</b> 330:7  <b>checkups</b> 344:15  <b>Chicago</b> 346:16  <b>Cienega</b> 330:22  336:14 338:17  345:20 348:9,14  350:14,16  <b>Cisneros</b> 302:21  <b>cite</b> 357:11  <b>City</b> 342:1,5,13  <b>claimant</b> 311:1 314:2  <b>Claimant's</b> 311:2  313:14,23 317:25  321:10 322:6  <b>clarify</b> 336:21  <b>classification</b> 309:7  <b>clear</b> 325:11 332:15  <b>click</b> 316:18,18  <b>closeout</b> 333:7,9  <b>Coahuila</b> 346:14,17  <b>codicil</b> 323:6  <b>Colfax</b> 302:11</p>	<p><b>collect</b> 351:13  <b>collecting</b> 343:23  <b>Colorado</b> 302:12  <b>column</b> 312:25 313:3  313:4  <b>combination</b> 309:12  334:9  <b>combinations</b> 335:5  <b>come</b> 319:24 321:7  326:24 329:21  343:15 347:20  <b>comes</b> 339:23  <b>coming</b> 343:14,17  358:9  <b>commerce</b> 309:15  350:6  <b>commercial</b> 307:25  308:5,8,18,23 309:2  309:7,13 334:8  335:4  <b>common</b> 340:12  <b>communication</b>  338:19  <b>companies</b> 318:19  319:11 344:15  <b>company</b> 301:21  344:22  <b>complaints</b> 306:23  318:19 319:21,25  320:15  <b>complete</b> 318:7  <b>completed</b> 329:2  351:6  <b>completely</b> 323:7  <b>compliance</b> 306:21  307:11,17,21 329:1  329:6 330:4,6  331:16 332:3 333:8  333:10,13 337:3,12  338:8,10 340:9  348:1 350:2 351:14  354:19  <b>complies</b> 310:1  321:11,22</p>	<p><b>computer</b> 351:2  352:3  <b>concerned</b> 335:16  353:9  <b>concluded</b> 303:7  359:18  <b>concludes</b> 355:7  <b>conclusion</b> 328:11  355:3  <b>condition</b> 325:22  326:13,14  <b>conducts</b> 314:12  <b>configurations</b> 309:2  <b>consider</b> 325:5,15  326:3,7 327:3 342:9  345:13  <b>considered</b> 326:18  <b>consists</b> 313:19 314:5  <b>constitute</b> 309:13  <b>contact</b> 305:7 318:14  320:18  <b>contacted</b> 318:20  319:25 320:12  <b>contacting</b> 318:17  320:14  <b>contained</b> 326:4  327:5  <b>context</b> 323:21  324:16 326:4 327:6  <b>continually</b> 314:15  <b>convenience</b> 348:4  <b>conversation</b> 349:19  349:23 350:13  <b>copy</b> 313:25 351:16  355:14,21,23 356:1  356:5 359:14  <b>corporate</b> 325:7  326:5  <b>correct</b> 304:15,17  313:9 318:5 329:3  334:5 335:14  342:14,24 350:6  360:11  <b>correctly</b> 350:4</p>
--	---	---	---

**cost** 357:14  
**counsel** 306:9 310:7  
 323:12 328:13,21  
 336:4,9 353:4 358:6  
 358:15,16 360:13  
 360:16  
**Counsel's** 335:23  
**counterpart** 327:12  
**country** 314:16  
**COUNTY** 360:2  
**couple** 325:9,9 331:4  
**course** 307:11,18  
**court** 303:17 304:3,6  
 304:14,18,23 305:3  
 305:6,9,22,25 306:3  
 306:4,9 310:14,19  
 311:3,8,20 312:5,12  
 312:21 313:11,19  
 313:24,25 314:4,23  
 315:3,4,25 316:5  
 318:1,4 319:2,3,17  
 320:3 321:15  
 322:14,23 323:3,17  
 323:24 324:10,18  
 324:24 325:14,16  
 325:20,23,24 326:2  
 326:10,13,15,16,20  
 326:25 327:1,2,3,14  
 327:16,19,24 328:3  
 328:6,9,17,21  
 331:12 332:9,14  
 334:19 335:12,15  
 335:21 336:1 337:6  
 337:9 338:10  
 341:12,19,24 342:4  
 342:9,13,16,18,22  
 342:25 343:2,7,10  
 343:15,20,25 344:4  
 344:9,12,16,19,21  
 344:24 346:8,18,22  
 346:25 347:16  
 351:9,25,25 352:2,5  
 352:7,9,11 353:9,14  
 354:10,12,23,25

355:5,8,10,18 356:4  
 356:17,19 357:1,10  
 357:14,17,22 358:3  
 358:12 359:3,11,16  
**Court's** 304:13  
 325:14 326:13,14  
 335:16 346:1  
**crazy** 315:4  
**create** 343:22  
**created** 343:19 344:3  
 344:5  
**credibility** 315:19  
**Cross** 303:4  
**CROSS-EXAMIN...**  
 336:2  
**CRR** 360:21  
**CSR** 360:21,22  
**CSR/RDR/CRR**  
 301:20  
**current** 315:23  
 358:25  
**C-o** 357:24

### D

**D** 303:1 304:1  
**Dallas** 340:19 342:1  
 342:6,10  
**dangerous** 304:18  
**date** 312:1 337:2,3,6  
 337:7,12,14  
**dated** 303:15 305:1  
 305:16,17  
**day** 311:8 337:18  
 353:18,22 360:19  
**days** 328:7 346:10  
 353:25  
**DC** 302:6  
**deal** 339:25  
**deals** 306:20  
**dealt** 337:2,14  
**decision** 358:5,10,22  
**Define** 309:8  
**Del** 345:25 346:6,8  
 346:17  
**Department** 301:1

302:4,10 317:21  
 318:15 325:3  
**deployed** 340:18  
**description** 303:11  
 313:1  
**desk** 353:2  
**determine** 306:23  
**Dewbre** 318:20  
 320:12,19 321:1,24  
 322:7  
**Dewbre's** 318:22  
**Diego** 330:22 345:17  
 345:21,23 347:3,24  
 347:24 348:8 349:1  
 349:11,15 350:5  
 353:5  
**different** 318:18  
 336:20 340:13  
 341:15 344:10,14  
 344:15,15  
**direct** 303:4 306:12  
 310:9 328:24  
**direction** 341:16  
**discuss** 328:10 340:2  
 355:2  
**discussed** 310:10,16  
 325:12 356:18  
**district** 354:4,6,15  
**Division** 306:17  
**divulging** 353:10  
**DMS** 312:24 313:6  
 356:3 358:8  
**Docket** 301:4 357:25  
**docketing** 356:5,6  
**dockets** 358:11  
**document** 312:4,5  
 313:2 321:14,14,18  
 321:24 322:2,4,6,20  
 325:20 326:25  
 332:7,24 333:4,5  
**documents** 305:15  
 313:6 329:10 330:9  
 339:4,6,10 343:23  
 351:13

**Dodge** 309:10  
**doing** 307:9 312:22  
 319:5 322:11 341:6  
 341:10 344:15  
**door** 335:10  
**DOT** 319:10,12,19  
 320:6 327:13  
**drawing** 324:5  
**drive** 301:22 302:17  
 315:4  
**driving** 348:3  
**dually** 309:10  
**duly** 306:11  
**duties** 307:14  
**D-e-w-b-r-e** 319:3  
**D-O-T** 319:12  
**D.C** 301:2

### E

**E** 302:1,1 303:1  
 304:1,1  
**earlier** 338:16 355:10  
**easiest** 356:18  
**easy** 324:4  
**either** 322:21 324:18  
 329:6 330:8 340:19  
 348:17 350:16  
 352:11  
**electronic** 324:20  
**Electronically** 321:6  
**elements** 357:4  
**Eliminating** 321:12  
**employed** 306:15,16  
 360:13,16  
**employee** 329:7  
 333:13 360:16  
**employees** 330:14  
**employment** 333:18  
 333:21  
**encountered** 332:2  
**encountering** 331:25  
**ended** 336:16  
**ensure** 355:14  
**entirely** 336:20  
**entities** 325:7

entrance 329:23	320:4	fine 356:19,23	forwarded 319:23
entrant 306:22	extra 357:15	finish 340:23	found 334:18
307:11	eye 348:14,16	firm 305:11	foundation 318:9
equal 345:14	eyes 348:11	first 304:11 305:10	319:16 322:17,19
error 334:5	e-mail 305:1 321:6,7	305:10,12,13,14	four 312:14 346:10
essentially 324:7	321:8,9,23,25	306:5,5 307:6,18	356:23
Estimate 316:19	356:17	308:17 312:25	free 328:11
et 315:15		316:9,10 321:12	frequently 343:4
eventually 338:22	<b>F</b>	325:12 329:15	front 317:9 331:4
evidence 311:10,21	FAA's 355:20	355:11 356:24	353:2
313:21 314:6 325:2	face 319:4	fiscal 308:15	further 322:10 328:2
341:9	facilitate 343:23	five 311:4 313:20	328:5 334:1 335:25
evidentiary 301:17	351:12	330:12 336:15	350:10 351:24
323:16,23	fact 315:23 324:25	345:10	360:12,15
exact 330:6 349:23	338:4	Flags 301:22	future 327:20
Exactly 344:18,20	facts 341:9 360:10	floor 352:25 353:2	F-l-o-r-e-s 330:21
EXAMINATION	failed 313:7	Flores 330:19,25	F-350 309:10
306:12 328:24	fair 312:7 339:25	331:1,15,22 333:1,9	
350:11 352:14	fairness 318:7	333:17,23 336:14	<b>G</b>
Excuse 310:7 323:12	familiar 309:1 335:1	336:23,24 338:16	G 304:1
342:7	335:4 341:25	339:2,20,23 340:2,5	Gamboa 302:16,16
excused 328:6,8	far 332:2 342:20	340:8,11,21,25	310:7 311:4,5,14,19
355:1,5	farther 316:1	341:5,10,14 342:18	312:3 313:10,15
exhibit 304:25 305:3	favor 324:25	345:8,11 348:3,7,9	314:1 315:10
310:6 311:13,16	feathered 342:12	348:17 349:1,11,15	317:24 319:14
312:19,25 313:1,7	February 316:10,11	350:5,13,16 353:5	322:11,18 323:1,10
313:14,20,21 314:5	federal 302:10	Flores's 340:15	323:12,19 324:9,13
314:6,24,25 327:2,3	306:16,17,19,20,25	FMCSA-2004-17247	325:19,22 326:8,14
332:11,20 333:16	307:3,7 318:3 320:5	357:25	327:11,17 328:4,5
343:20 359:14	327:7,15 329:6	FMCSA-2007-0089	331:10 334:13
exhibits 303:10,17	330:14 333:12	301:4	335:7 336:1,3 337:8
305:18,19 312:23	336:25 359:7	follows 306:11	337:11,13 341:17
312:24 332:11	feds 359:8	328:23	342:7,11 344:24,25
355:13,15	feel 357:7	force 337:21,22,25	346:13,19,24 347:2
existence 315:14,20	field 345:25 349:5	338:7,14,22 349:7	347:19 348:23,25
Exp 360:22	figure 346:10	350:17 353:5,20	350:10 351:7,10
expecting 324:13	file 324:11,12,14	Ford 309:10	352:1,13,15 353:12
experience 334:7	348:20	foregoing 360:10	353:16 354:13,22
355:20,21	filed 323:4 358:21	form 305:7 319:15	355:8,9,24 356:1,9
explained 338:16	359:1	351:11	356:20 357:10,16
explanation 349:6	files 345:1	forms 351:15	357:21 358:1,13
explore 341:15	filled 351:5	Fort 302:18 339:25	359:5,10
extensive 310:15	filled-out 351:1	340:16 342:8,9,14	Gamboa's 305:11
extent 315:25 316:3,5	final 359:1	forward 321:1,4	318:8
	financially 360:17		game 304:18



<p><b>general</b> 309:1 342:19 343:3 356:11 358:6 358:14,16 <b>generally</b> 309:6 <b>generic</b> 353:15 <b>gentleman</b> 347:22 <b>geographical</b> 342:19 343:3 <b>getting</b> 346:22 351:16 357:12 <b>Gibson</b> 302:21 310:10 329:15 330:2,24 331:2,5 332:21 333:6,17,18 333:20 348:7 349:12 <b>Gibson's</b> 315:19 353:2 <b>gist</b> 349:19 <b>give</b> 313:25 330:17 338:24 357:18,19 <b>given</b> 310:10 <b>giving</b> 351:19 <b>go</b> 309:11 310:12 314:14,21 322:2 325:21 327:24 328:11 329:14 332:10 336:7,23 337:23 341:16,20 352:2 355:11 357:3 357:12 358:3 359:16 <b>goes</b> 314:17 317:20 358:8 <b>going</b> 309:6,24 310:8 310:12,15 311:14 312:19,20 313:22 315:18 319:4 322:23 325:4,15 326:3,7,22 328:9,15 328:18 329:1 331:9 331:12 333:16,23 334:3,4,13,19 335:7 335:15,16 340:3</p>	<p>341:8,12,20 343:15 343:18 344:5,7 345:1 347:8,10 348:20,21 353:7 354:8,25 355:15 357:14 358:23 <b>good</b> 318:19 327:18 <b>goods</b> 314:12 319:1 319:11,13,20 337:22 350:22 <b>Goodwin</b> 301:19 302:4 <b>government</b> 329:7 352:5,9 <b>governmental</b> 322:21 <b>great</b> 310:11 346:13 <b>greater</b> 334:10,11 335:19 342:1,5,16 <b>gross</b> 308:1 <b>grounds</b> 353:8 <b>guess</b> 349:21</p>	<p><b>hearsay</b> 320:8 322:21 <b>held</b> 358:13 <b>help</b> 319:23 320:1 <b>hereto</b> 360:17 <b>high</b> 346:15 <b>history</b> 326:1,19 347:1 <b>hit</b> 353:6 <b>Hold</b> 314:23 <b>home</b> 317:9 <b>Honor</b> 304:17 305:20 310:8,21 311:11,14 312:3 313:15 314:7 315:1,10 317:23 318:11 319:6 320:9 323:10 324:23 325:8 328:8 334:17 335:8,24 341:8,17 341:23 342:7 344:23 348:21 351:10 353:7 354:7 354:24 355:6,9,17 358:25 359:14 <b>Honorable</b> 301:18 302:4 <b>household</b> 314:12 318:19 319:1,10,13 319:20 337:22 350:22 <b>Houston</b> 340:19</p>	<p><b>inappropriate</b> 323:6 <b>incident</b> 339:10 <b>included</b> 338:24 <b>indicate</b> 325:13 <b>indicated</b> 323:25 325:3 <b>indicating</b> 317:1,3 <b>indication</b> 314:11 <b>inferences</b> 320:6 <b>information</b> 320:5,23 321:1,4 346:1 353:10 <b>ink</b> 357:11 <b>inquiry</b> 310:16 <b>inside</b> 329:24 348:10 <b>inspected</b> 308:23 <b>inspecting</b> 307:24 <b>inspection</b> 307:24 308:20 <b>inspections</b> 306:22 307:20,21 308:8 <b>inspector</b> 308:5,7,18 <b>instruct</b> 324:14 328:9 354:25 <b>intend</b> 355:7 <b>intensive</b> 356:21 <b>interest</b> 315:12 <b>interested</b> 320:21 350:5 360:17 <b>interesting</b> 327:19 <b>internet</b> 356:3,6 <b>interrogatories</b> 305:14 <b>interstate</b> 314:12,13 319:22 350:6 353:17 <b>Interview</b> 305:7 <b>intra</b> 350:9 <b>intrastate</b> 350:8 <b>introduced</b> 325:6 <b>introducing</b> 325:18 <b>introduction</b> 325:19 <b>investigating</b> 309:17 <b>investigation</b> 306:24</p>
<b>H</b>			
<p><b>Haltom</b> 341:25 342:5 342:13 <b>hand</b> 306:1 312:19 313:22 360:18 <b>handed</b> 313:14 333:5 333:6 <b>handwritten</b> 332:17 333:16 <b>happened</b> 317:10 336:13 338:4 <b>happier</b> 353:14 <b>happy</b> 318:10 323:20 <b>hard</b> 357:20 <b>hear</b> 327:13 346:19 <b>heard</b> 301:18 <b>hearing</b> 301:11,17 313:5 323:16,23,25 324:2,4,6 326:2 328:11 346:10 355:3 360:4 <b>HEARINGS</b> 301:2 302:5</p>			
<b>I</b>			
<p><b>ID</b> 313:3 <b>ideas</b> 351:16 <b>identification</b> 311:9 311:16,20 313:2,20 314:5 <b>identify</b> 311:13 <b>identifying</b> 338:8 <b>impact</b> 353:10 357:5 <b>implication</b> 341:14 <b>implications</b> 359:4 <b>implies</b> 332:17 <b>important</b> 358:13 <b>inadmissible</b> 320:7</p>			

<p>309:20 318:13 319:13,20 320:2 343:16 350:1 351:5 351:21 <b>investigations</b> 319:10 344:8 351:4 352:3 <b>investigator</b> 307:8,14 308:4 322:7 326:24 333:13 336:25 345:15 347:4,25 <b>investigators</b> 329:9 340:14 344:14 351:15 <b>investigator's</b> 330:22 <b>involved</b> 319:1,9 338:2 <b>involvement</b> 309:16 319:12,19 <b>involves</b> 320:4 <b>involving</b> 319:10 320:22 <b>Island</b> 346:7 <b>issue</b> 322:24 323:1,8 324:19 326:23 334:2 356:15 <b>issued</b> 352:5,9 358:7 <b>issues</b> 327:6,7 357:7 357:8 <b>it'll</b> 310:19 355:18</p> <p><b>J</b></p> <p><b>Jack</b> 346:14,20 347:1 <b>Jackson</b> 302:9 304:5 304:8,16,19 305:2,5 305:8,20 306:13 310:18,21,22 311:1 311:6,11,12,17,23 311:24 312:7,8,13 312:15 313:12,13 313:17,22 314:2,7,8 314:25 315:7,18 316:3,7 317:23 318:10,12 319:5,8 319:18 320:9,10 321:16 322:9,25</p>	<p>323:11 324:23 325:8,17,25 326:11 326:17,22 327:21 327:25 328:8,15,25 331:14 332:10,19 334:16,21 335:14 335:18,24 341:8 348:21 350:12 351:18,23 353:7 354:7,24 355:6,17 355:22 356:8,16 358:9,24 359:13 <b>Jeffrey</b> 303:5 305:23 306:7,10 <b>Jersey</b> 302:6 <b>Joanne</b> 302:21 <b>JOHN</b> 302:16 <b>joined</b> 329:18 <b>Judge</b> 302:3 313:12 326:9 <b>judgment</b> 323:4,8,14 323:15,21 324:1,3,7 324:10,11,12 <b>June</b> 301:13,19 314:18 360:6,19 <b>J-e-f-f-r-e-y</b> 306:8</p> <p><b>K</b></p> <p><b>Karen</b> 301:20 360:21 <b>keep</b> 348:11,14,16 <b>Kentucky</b> 307:9 <b>kept</b> 336:5 <b>kid</b> 346:21 <b>kind</b> 326:6 327:9 355:13 <b>knew</b> 341:20 <b>know</b> 304:19 320:7 326:20 335:21 341:3,3 342:20 343:2 346:8,25 347:10 348:15 349:22 352:12 355:24 356:20 358:19,20 <b>knowledge</b> 320:5</p>	<p><b>L</b></p> <p><b>L</b> 301:20 302:16 360:21 <b>lady</b> 356:3 <b>lady's</b> 357:22 <b>laid</b> 318:9 322:19 <b>Lakewood</b> 302:12 <b>Langloss</b> 303:5 304:10 305:23 306:7,10,14 315:21 318:1 325:10 335:18 <b>laptop</b> 352:16 <b>Laredo</b> 339:21,24 342:23 345:24 346:2 <b>large</b> 309:5,8 <b>Late</b> 347:23 <b>law</b> 302:3 305:11 323:20,20 325:5 326:6 327:8,14,15 327:17,18,20 <b>lawyer</b> 336:20 <b>lay</b> 322:17 <b>leading</b> 351:8 <b>Leal</b> 303:6 328:16,17 328:22 329:1 334:3 336:4 <b>left-hand</b> 312:25 <b>legal</b> 324:1 <b>length</b> 310:11 <b>letter</b> 305:11 <b>let's</b> 310:12 336:7,23 <b>Liebowitz</b> 355:15 <b>light</b> 320:3 <b>limited</b> 354:9 <b>line</b> 334:14 <b>link</b> 314:13 316:19 <b>links</b> 316:18 <b>listed</b> 317:8 <b>listen</b> 342:4 <b>little</b> 341:15 <b>LLP</b> 302:16 <b>located</b> 339:20</p>	<p>341:24 <b>location</b> 338:15,17 <b>long</b> 306:25 307:3 315:3 330:10 345:8 350:14 <b>longer</b> 314:12 315:14 315:21 <b>look</b> 310:5 319:4 321:10,13,17 332:12 344:7 353:23 <b>looked</b> 321:19 326:1 <b>looking</b> 316:21 345:2 <b>lost</b> 358:22 <b>lot</b> 332:6,23 <b>love</b> 326:20 <b>L-a-n-g-l-o-s-s</b> 306:8</p> <p><b>M</b></p> <p><b>mail</b> 356:13 <b>main</b> 329:22 <b>maintain</b> 308:11 <b>maintained</b> 308:20 <b>manager</b> 306:16,19 307:1 <b>Mario</b> 303:6 328:16 328:22 <b>Mark</b> 333:18 <b>marked</b> 312:20 313:23 <b>Maryland</b> 324:21 <b>match</b> 305:21 <b>material</b> 327:7 <b>matter</b> 301:4 304:9 304:11 315:12 336:20 348:4 <b>matters</b> 304:7 <b>mean</b> 337:6 338:21 <b>means</b> 336:20 <b>meant</b> 337:10 <b>meet</b> 337:16 339:14 339:24 348:2 <b>meeting</b> 349:2,3,12 349:16 <b>memory</b> 322:16</p>
--	---	---	---

<p>325:18 336:10 350:14 <b>mentioned</b> 349:8 355:10 <b>met</b> 329:15 <b>methodology</b> 313:11 <b>metropolitan</b> 342:16 <b>Mexican</b> 346:12 <b>Michael</b> 318:20 <b>middle</b> 313:1 <b>mid-May</b> 320:20 <b>miles</b> 346:4 <b>mind</b> 304:10 351:16 <b>Mine</b> 339:13 <b>minimum</b> 308:13 <b>minute</b> 311:8 313:24 339:14 350:15 <b>minutes</b> 330:12 336:15 345:10 <b>misnumbered</b> 315:1 <b>misquotes</b> 335:16 <b>mistake</b> 335:20 <b>moment</b> 357:12 <b>money</b> 352:12 <b>monitored</b> 309:21 <b>monitoring</b> 312:9 314:10,17 <b>month</b> 314:19 <b>moot</b> 323:15,22 324:3 <b>Moreno</b> 333:18,21 <b>morning</b> 317:17 <b>motion</b> 324:6 358:21 <b>motor</b> 302:10 306:17 307:3,7,25 308:5,8 308:18,24 309:2,7 309:13 318:3 319:13,20 320:5 329:6 330:15 333:12 334:8,8 335:4 336:25 350:22 355:19 <b>move</b> 311:1 314:14 <b>movement</b> 320:16</p>	<p><b>Movers</b> 301:5 303:12 303:13,14,15 305:16,17 309:17 309:21,22 310:3,24 312:10 314:10,11 314:20 315:8,12,14 315:20 316:24 317:7,13 318:14 320:11,17,22 321:2 329:2,15 331:7,17 331:20 334:10,24 338:17 341:11,21 343:8,16 350:18 351:21 354:18 360:4 <b>moves</b> 314:12,16 319:22 350:6 <b>moving</b> 317:15 319:11 <b>multipage</b> 321:14 <b>multiple</b> 338:1</p> <hr/> <p style="text-align: center;"><b>N</b></p> <p><b>N</b> 302:1 303:1 304:1 <b>name</b> 306:5,5 318:23 330:22 345:19 <b>names</b> 330:18 <b>NANCY</b> 302:9 <b>nancy.jackson@f...</b> 302:13 <b>national</b> 301:21 307:10 <b>need</b> 306:23 325:8,10 326:25 327:1,20 334:5 353:23 356:12,22 358:17 358:18 359:11 <b>needs</b> 318:9 <b>neither</b> 360:12 <b>never</b> 346:9 <b>new</b> 302:6 306:21 307:11 <b>nice</b> 356:3 <b>night</b> 323:13 339:5 340:6 343:13 347:7</p>	<p><b>normal</b> 324:16 <b>normally</b> 356:23 <b>North</b> 307:19 340:17 <b>northern</b> 354:4,6,15 <b>northwest</b> 346:2 <b>note</b> 333:17 <b>notes</b> 325:13 <b>noticed</b> 312:16 <b>number</b> 313:1 315:23 317:12,18,19 338:24,25 <b>numbered</b> 301:18 315:2 <b>numbers</b> 315:21 317:4,7,8</p> <hr/> <p style="text-align: center;"><b>O</b></p> <p><b>O</b> 304:1 <b>oath</b> 328:19 355:1 <b>object</b> 310:8 334:13 341:9 348:22 353:8 354:8 <b>objection</b> 312:3 315:11,17 318:8 319:14 320:3 322:13,15,18 323:22 331:10,13 334:20 335:8,23 351:7 <b>objections</b> 311:5 <b>observed</b> 315:22 334:9,23 <b>obtain</b> 316:18 <b>obvious</b> 313:4 <b>occasion</b> 318:14 <b>October</b> 308:15 <b>office</b> 301:2 302:5 327:14,18,20 339:18,21 345:25 349:5 352:13 355:19,23 356:5 358:6,14,15 360:19 <b>offices</b> 301:21 <b>Oh</b> 352:1 357:16 <b>okay</b> 305:2,5,8</p>	<p>308:23 310:5 311:20 312:16,19 315:5,5 317:1,10 320:18,21 321:22 322:25 324:17 325:24 326:10 327:24 329:12,14 329:18,25 330:17 331:19 336:19 338:9 339:2 342:13 344:12 345:21 347:7,22,24 349:24 350:4 351:3,19,23 352:1,18 354:19 358:1,12 <b>old</b> 345:11 347:22 <b>once</b> 349:5 356:8 <b>oOo</b> 359:20 <b>open</b> 321:24 <b>opens</b> 316:19 <b>opinion</b> 358:7,9,17 358:18 <b>opportunity</b> 321:17 <b>Oral</b> 305:7 <b>order</b> 308:7 356:13 359:1 <b>orders</b> 356:15 <b>original</b> 355:13 <b>outside</b> 329:11,23 348:9,15 <b>overruled</b> 310:20 351:9 354:10 358:14 <b>oversee</b> 306:20</p> <hr/> <p style="text-align: center;"><b>P</b></p> <p><b>P</b> 302:1,1 304:1 <b>Padre</b> 346:7 <b>page</b> 303:2 305:11,17 317:9,9 321:12,13 332:13 <b>pages</b> 310:6 311:4,22 313:20 314:5 321:15,19 360:10 <b>paginated</b> 311:3,22</p>
--	--	--	--

<p><b>pagination</b> 310:6</p> <p><b>paid</b> 346:23</p> <p><b>Parkview</b> 302:17</p> <p><b>part</b> 309:20 314:14 318:5,13 330:6 331:16 350:17 353:4,5</p> <p><b>participate</b> 331:22</p> <p><b>participating</b> 332:3</p> <p><b>participation</b> 333:1</p> <p><b>particular</b> 336:8 350:2</p> <p><b>parties</b> 301:24 360:14,16</p> <p><b>party</b> 315:12 353:11</p> <p><b>pay</b> 356:2</p> <p><b>Pecina</b> 347:15</p> <p><b>pencil</b> 311:22 324:4</p> <p><b>people</b> 329:5,19 330:14 338:1,13,21 338:21 351:4</p> <p><b>perform</b> 314:15</p> <p><b>period</b> 308:14 312:9 312:17 314:9 320:16,22,23 357:24</p> <p><b>person</b> 329:25 330:10 345:16</p> <p><b>petition</b> 359:1</p> <p><b>phone</b> 315:21,23 317:8,12,16,18,19</p> <p><b>photocopied</b> 315:2</p> <p><b>pick</b> 329:10 339:4,15 343:18</p> <p><b>picked</b> 344:6 350:25</p> <p><b>picking</b> 343:25</p> <p><b>pickup</b> 309:5,5,8</p> <p><b>piece</b> 326:23</p> <p><b>place</b> 341:14</p> <p><b>planning</b> 319:5</p> <p><b>pleading</b> 305:9</p> <p><b>pleadings</b> 358:5,20</p> <p><b>please</b> 306:6 321:10 330:20 340:23</p>	<p>347:17 355:2</p> <p><b>point</b> 305:19 310:19 325:19 326:2 329:18 335:12 358:20,22</p> <p><b>position</b> 307:6 311:4 359:5</p> <p><b>possession</b> 318:3</p> <p><b>possibility</b> 354:2</p> <p><b>post</b> 312:24 327:13 327:18,19 356:6</p> <p><b>posted</b> 356:2</p> <p><b>pounds</b> 308:2 309:12 334:11,11</p> <p><b>practice</b> 340:12</p> <p><b>Praxedis</b> 330:19 331:25 332:3 336:14</p> <p><b>preliminary</b> 304:7,9 304:11</p> <p><b>prepared</b> 332:5,6,24 351:11</p> <p><b>preparing</b> 333:2</p> <p><b>present</b> 301:24 302:20 329:5 333:9 333:13,23</p> <p><b>presumption</b> 324:25</p> <p><b>previous</b> 337:18 339:5 340:6 343:13</p> <p><b>previously</b> 328:23</p> <p><b>print</b> 351:2</p> <p><b>printed</b> 322:4</p> <p><b>printer</b> 352:7,18,20</p> <p><b>printout</b> 310:23 312:1</p> <p><b>prints</b> 310:3</p> <p><b>prior</b> 325:15 328:10 335:10 355:2</p> <p><b>probably</b> 324:24 327:21 331:24 342:2 349:20</p> <p><b>problem</b> 324:20 328:14 338:19 350:2 354:20</p>	<p><b>problems</b> 324:15 326:17</p> <p><b>proceeding</b> 325:1</p> <p><b>Proceedings</b> 303:7 359:18</p> <p><b>process</b> 330:3</p> <p><b>production</b> 305:15</p> <p><b>program</b> 306:16,19 306:20 307:1 359:7 359:7</p> <p><b>promised</b> 318:1</p> <p><b>proper</b> 315:11,15 319:15 322:17,19</p> <p><b>property</b> 349:13,17</p> <p><b>proven</b> 322:13</p> <p><b>provide</b> 349:6</p> <p><b>providing</b> 351:16</p> <p><b>pull</b> 335:2</p> <p><b>purported</b> 327:4</p> <p><b>purports</b> 305:15,17</p> <p><b>purpose</b> 318:17 320:14 351:19</p> <p><b>purposes</b> 311:25 313:3 328:1 334:6</p> <p><b>put</b> 324:16</p> <p><b>P-e-c-i-n-a</b> 347:18</p> <p><b>P-r-a-x-e-d-i-s</b> 330:21</p> <p><b>p.m</b> 359:18</p>	<p>332:12</p> <p><b>quite</b> 317:14 356:21</p>
<b>R</b>			
			<p><b>R</b> 302:1 304:1</p> <p><b>raise</b> 305:25</p> <p><b>ran</b> 357:11</p> <p><b>rating</b> 308:2</p> <p><b>RDR</b> 360:21</p> <p><b>read</b> 306:23 357:6 358:18,18,20</p> <p><b>ready</b> 357:13</p> <p><b>realize</b> 313:6</p> <p><b>really</b> 336:16</p> <p><b>realm</b> 322:21</p> <p><b>reason</b> 339:3 343:17 356:25 358:12</p> <p><b>rebuttal</b> 303:4 310:9 310:11,13 311:15 315:11,15 335:9,22 355:7 356:25</p> <p><b>recall</b> 318:22 323:25 328:16 330:7 331:3 333:3,25 336:5,8,8 336:13,17 345:2,4 349:9,23 358:6,8</p> <p><b>recalled</b> 328:18</p> <p><b>recaption</b> 324:5</p> <p><b>received</b> 307:13 311:9,21 313:20 314:6 319:22 320:1 320:15 321:23 322:6,17</p> <p><b>recite</b> 357:10</p> <p><b>recollection</b> 331:15 341:13 346:11</p> <p><b>reconsideration</b> 359:1</p> <p><b>record</b> 304:21 306:6 311:25 313:9 318:8 319:2 322:22,22 324:7,11,20 325:1 325:11,21 327:23 332:14 334:6 336:21 337:10</p>
<b>Q</b>			
			<p><b>qualification</b> 322:12</p> <p><b>question</b> 319:15,15 319:17 323:13,14 334:4,5,14,17,22 336:9 337:24,25 340:7,23 341:4 342:5 348:23,24 349:14 351:8,25 354:12 359:6</p> <p><b>questions</b> 325:10 328:2,4,5 330:8 331:1,6,16 336:4,7 337:11 350:10</p> <p><b>quick</b> 304:11,21</p>

<p>359:16  <b>recording</b> 351:12  <b>records</b> 304:12,13,15  304:16 305:21  318:2 325:3 330:4  331:19,23  <b>RECROSS</b> 352:14  <b>red</b> 357:12,12  <b>redirect</b> 350:11 353:4  <b>redo</b> 323:7  <b>refer</b> 345:21  <b>referred</b> 310:14  <b>referring</b> 327:15  <b>refile</b> 324:6  <b>reflect</b> 304:12 310:23  313:7  <b>reflects</b> 337:10  <b>reg</b> 335:13,13,16,17  <b>regard</b> 307:14 314:20  318:13 320:11  321:2  <b>regulations.gov</b>  358:4  <b>rehabilitate</b> 334:14  334:17 335:10  <b>reiterate</b> 327:2  <b>relate</b> 331:7  <b>related</b> 360:13  <b>relationship</b> 309:17  <b>relative</b> 360:15  <b>relaxed</b> 325:2  <b>relevance</b> 353:8  <b>relevant</b> 327:6 357:8  <b>remember</b> 346:22  <b>remind</b> 328:18  <b>repeat</b> 341:3 349:14  <b>repeating</b> 336:5  <b>rephrase</b> 319:17  353:12  <b>reported</b> 301:19  <b>reporter</b> 319:3 360:9  <b>REPORTER'S</b> 303:8  360:3  <b>reporting</b> 301:20</p>	<p>356:4  <b>request</b> 305:10,13,14  320:23  <b>required</b> 308:4  <b>research</b> 323:13  <b>reserved</b> 324:1  <b>respective</b> 301:24  357:7  <b>respondent</b> 301:6  302:15 305:19  310:17 356:24  <b>respondent's</b> 305:12  <b>response</b> 318:8  323:14 331:10  <b>responsibility</b> 350:17  <b>Restate</b> 354:12  <b>Results</b> 305:4  <b>Retained</b> 303:17  <b>reurge</b> 322:18  <b>reversal</b> 358:19,21  <b>reverse</b> 358:16  <b>review</b> 307:11,17  313:6 326:4 327:5  329:2,6 330:4,6  331:16,22 332:3  333:8,10,14 335:17  337:3,12 338:10  340:9 350:18  358:11  <b>reviewed</b> 331:19  358:7  <b>reviewing</b> 327:3  330:3,8,8 343:24  <b>reviews</b> 306:21  307:22 338:8 348:1  351:14  <b>ribbon</b> 324:21  <b>Richard</b> 301:19  302:4  <b>right</b> 305:25 315:5  323:17 325:16  328:3 335:23,24  346:6,11,13 348:24  <b>Rio</b> 345:25 346:6,8</p>	<p>346:17  <b>roadside</b> 307:20,23  <b>room</b> 302:5 330:23  <b>rule</b> 356:11  <b>rules</b> 325:2</p> <hr/> <p><b>S</b></p> <p><b>S</b> 302:1 304:1  <b>safety</b> 301:22 302:10  306:17,21 307:8,14  308:3 333:12  336:25 337:1 347:4  347:25  <b>Santos</b> 347:15,20,22  <b>sat</b> 330:1  <b>saw</b> 310:24  <b>saying</b> 353:20  <b>says</b> 305:6 313:3,4  338:1  <b>scenario</b> 343:13  <b>schedule</b> 356:10,20  359:9  <b>scheduling</b> 356:13  <b>school</b> 346:15  <b>scope</b> 354:8  <b>screen</b> 310:3  <b>seal</b> 324:22 360:19  <b>sealed</b> 324:21  <b>Search</b> 305:4  <b>seated</b> 306:4  <b>second</b> 307:23  317:18 330:21  356:24 357:18  359:14  <b>secretary</b> 358:16  359:5  <b>secretary's</b> 358:18  <b>see</b> 319:25 320:15  324:20 336:19  339:23 342:9  345:11,16 346:25  353:3 356:9,9  357:16  <b>seeing</b> 333:3  <b>seen</b> 314:10</p>	<p><b>self-authenticating</b>  324:22  <b>send</b> 356:17  <b>sends</b> 356:3  <b>separate</b> 352:20  <b>separately</b> 323:9  <b>September</b> 308:16  <b>serious</b> 359:6  <b>serves</b> 322:16  <b>service</b> 301:5 302:11  314:15 356:4  <b>set</b> 305:13 352:24,25  358:21  <b>Shane</b> 302:21  <b>share</b> 339:7,17  <b>sheets</b> 344:1  <b>Shelton</b> 301:20  360:21  <b>shock</b> 305:22  <b>Shop</b> 317:21  <b>short</b> 304:9  <b>Shorthand</b> 360:8  <b>show</b> 304:23,25  305:18 311:21  313:19 314:4 318:6  322:14 325:6  <b>showed</b> 338:13,17,21  338:22 343:8,11  <b>shows</b> 305:4 312:5  <b>shy</b> 307:9  <b>sign</b> 356:14  <b>signed</b> 332:20  <b>sir</b> 313:10 328:10,20  336:12,22 349:23  350:7 352:6,8,10  353:19 354:1 355:4  359:10  <b>sitting</b> 329:24  <b>six</b> 301:22 311:22  <b>smiling</b> 327:11  <b>somebody</b> 342:6  <b>sorry</b> 315:6 337:8  340:24 346:24  354:5,11</p>
--	---	--	--

<p>sort 307:13</p> <p>southern 301:5 346:7</p> <p>speak 359:15</p> <p>speaks 312:4,6</p> <p>special 337:20</p> <p>specific 336:13</p> <p>specifically 339:10</p> <p>speculation 331:11</p> <p>348:22</p> <p>spell 306:5 330:20</p> <p>347:16</p> <p>spelling 318:22</p> <p>spent 307:9 346:10</p> <p>spreadsheet 312:22</p> <p>312:24</p> <p>staff 312:23</p> <p>stage 330:4</p> <p>stand 305:25 335:22</p> <p>Standard 307:19</p> <p>started 307:7</p> <p>state 306:4 307:8</p> <p>312:1 325:4 327:8,9</p> <p>327:12 346:14</p> <p>359:7 360:1,9</p> <p>stated 315:20 325:23</p> <p>335:20 360:10</p> <p>statement 325:14</p> <p>332:5,9,16,20</p> <p>states 301:1 315:19</p> <p>346:20</p> <p>status 358:19,25</p> <p>stay 345:8</p> <p>stayed 329:10</p> <p>stepped 304:10</p> <p>sticks 359:5</p> <p>stipulate 311:16,19</p> <p>313:15 314:1</p> <p>stipulated 317:24</p> <p>325:19</p> <p>stipulating 326:11</p> <p>stop 307:23 317:21</p> <p>straighten 338:20</p> <p>strike 337:21,22,25</p> <p>338:7,13,22 349:7</p>	<p>350:17 353:5,20</p> <p>subject 338:10</p> <p>SUBSCRIBED</p> <p>360:18</p> <p>substitute 327:22</p> <p>suggest 332:15</p> <p>suggested 322:15</p> <p>suggestion 323:5</p> <p>Suite 301:22 302:12</p> <p>302:17</p> <p>summary 323:4,7,14</p> <p>323:15,21,25 324:3</p> <p>324:10</p> <p>supervisor 340:10</p> <p>345:13,15 347:13</p> <p>347:14 349:6</p> <p>sure 304:12 325:11</p> <p>332:12 337:10</p> <p>345:6 356:21</p> <p>surprised 343:7,11</p> <p>sustain 331:12</p> <p>334:19 335:23</p> <p>341:12</p> <p>sworn 306:2,11</p> <p>328:23 360:18</p> <p>S-a-n-t-o-s 347:18</p> <p>S.E 302:6</p> <p style="text-align: center;"><b>T</b></p> <p>Tab 309:25 310:2,3</p> <p>311:7</p> <p>tactic 335:9</p> <p>take 310:5 314:13</p> <p>322:20 332:11</p> <p>352:3 358:4</p> <p>taken 360:15</p> <p>talk 331:24 340:13</p> <p>340:20 343:4 349:2</p> <p>349:11,15 351:13</p> <p>talked 331:24 332:6</p> <p>334:8 339:5 340:6</p> <p>343:13 349:4</p> <p>350:24 353:3</p> <p>talking 309:9 333:17</p> <p>333:20 334:7 348:6</p>	<p>348:7 352:16</p> <p>TARRANT 360:2</p> <p>tarred 342:11</p> <p>taught 307:10</p> <p>teach 307:11</p> <p>teaches 307:19</p> <p>telephone 305:7</p> <p>317:4,6</p> <p>tell 306:14 307:16</p> <p>310:2 319:4 332:1</p> <p>337:16 340:10</p> <p>347:8</p> <p>template 351:3</p> <p>ten 307:9</p> <p>terminal 307:21</p> <p>terms 327:5</p> <p>testified 306:11</p> <p>328:23 332:23</p> <p>335:19 341:10</p> <p>testify 315:22 318:2</p> <p>testimony 310:9,13</p> <p>315:13,19 316:1,4,6</p> <p>319:6 320:4 328:10</p> <p>335:11 342:23</p> <p>354:9 355:2 360:14</p> <p>Texan 342:6</p> <p>Texas 301:23 302:18</p> <p>306:17 307:1</p> <p>317:21 318:15</p> <p>319:10,12,12,19</p> <p>320:6 325:4,5 326:6</p> <p>327:12,17 339:22</p> <p>339:24,25 340:17</p> <p>341:25 342:5 343:1</p> <p>345:25 354:4,6,15</p> <p>360:1,9,22</p> <p>thank 305:20 310:18</p> <p>310:21 311:11,23</p> <p>313:12,17 314:7</p> <p>317:23 318:25</p> <p>319:6 320:9 322:9</p> <p>334:1 335:25</p> <p>351:10,23 354:22</p> <p>thereof 335:5</p>	<p>thing 324:8</p> <p>things 319:24 325:9</p> <p>331:4 351:14</p> <p>think 318:7,8 323:3,6</p> <p>324:24 325:5 327:1</p> <p>332:14 341:15</p> <p>348:19 357:5 359:3</p> <p>thinking 338:1</p> <p>thought 313:24</p> <p>334:18 337:9</p> <p>three 312:14 314:5</p> <p>327:12 329:13</p> <p>338:23 356:22</p> <p>thumb 321:21</p> <p>time 308:14 312:9,17</p> <p>314:9 315:10</p> <p>316:10,16 320:16</p> <p>320:22,23 322:16</p> <p>323:15 332:4</p> <p>334:20 348:6,12</p> <p>356:12 357:20</p> <p>times 312:10</p> <p>tip 346:6</p> <p>title 347:3</p> <p>titled 305:10</p> <p>today 315:23,24</p> <p>316:21</p> <p>today's 337:7</p> <p>told 340:5,7</p> <p>top 305:3,6</p> <p>track 358:22</p> <p>trailer 309:6,11</p> <p>trailers 334:23,23</p> <p>335:2</p> <p>training 307:10,13</p> <p>transcript 301:11</p> <p>335:21 355:12,19</p> <p>355:22,23,25 356:2</p> <p>356:8,9 357:19</p> <p>transmittal 305:11</p> <p>Transport 357:3,17</p> <p>357:24</p> <p>Transportation</p> <p>301:1,21 302:4,10</p>
--	---	---	--

<p>317:21 318:15 325:4 <b>traveling</b> 328:13 356:18 <b>triple</b> 324:22 <b>truck</b> 309:5,5 <b>trucks</b> 335:1 <b>true</b> 360:10 <b>try</b> 316:21 317:6 341:17 <b>trying</b> 334:14,16 335:9 336:21 346:10 357:19,23 <b>turn</b> 309:24 311:7 <b>Twelve</b> 307:5 <b>two</b> 322:24 326:20 328:7 329:8,19 339:18 343:2 344:13,13 355:12 355:18 356:7,10,12 356:22 357:1,6 359:8 <b>two-week</b> 307:17 <b>two-year</b> 320:16,22 <b>TX</b> 327:13 <b>type</b> 305:7 341:5 358:4 <b>typed</b> 332:20 <b>types</b> 309:2</p> <p><b>U</b></p> <p><b>undersigned</b> 360:8 <b>understand</b> 317:14 323:17,24 324:1 325:6 328:12 336:10 342:22 344:4 350:4 352:2 <b>understanding</b> 319:11,16 327:25 330:12 <b>United</b> 301:1 346:20 <b>unrelated</b> 344:17 <b>use</b> 344:8 351:4,14 351:15 <b>usually</b> 324:17</p>	<p>337:22 339:7 340:13,20 343:6 <b>Uvalde</b> 339:22,24 343:1 346:1 <b>U.S</b> 302:4,10</p> <p><b>V</b></p> <p><b>various</b> 309:2 310:6 319:10 335:5 <b>vehicle</b> 308:1,1,2 309:7,14 334:9 <b>vehicles</b> 307:25 308:5 308:9,18,24 309:3 334:8 335:5 <b>viability</b> 325:7 326:5 <b>violation</b> 326:6 <b>violations</b> 325:5,15 326:3 327:4,4,9 332:1 <b>virtually</b> 324:22 <b>visit</b> 353:6,17,22 354:5,14 <b>visited</b> 353:18 <b>VOLUME</b> 301:12 360:5</p> <p><b>W</b></p> <p><b>Wait</b> 339:14 342:4 <b>waited</b> 329:23 <b>waive</b> 323:22 <b>waived</b> 323:16 <b>walked</b> 348:12 <b>want</b> 304:3,12 315:3 316:1 323:1,7,8,19 323:22 324:16 327:13 332:11,15 332:17 341:16 349:21 351:15 352:12 357:2,6 358:20 359:8 <b>wanted</b> 337:10 <b>wants</b> 325:6 <b>Washington</b> 301:2 302:6 <b>wasn't</b> 353:25 357:12</p>	<p><b>way</b> 323:3 324:17 334:18,22 338:1 356:18 <b>web</b> 305:17 <b>Webpage</b> 303:13,15 <b>website</b> 303:12,14 305:16 309:21,22 310:4,24 312:2,10 312:13,17 314:10 314:11,17,21 315:8 315:9,22 316:8,15 316:24 317:4,9,19 <b>wedded</b> 356:11 <b>WEDNESDAY</b> 301:13 <b>week</b> 349:4,7 353:22 354:3,15 <b>weeks</b> 327:12 355:12 355:18 356:22,23 <b>weight</b> 308:2 <b>went</b> 304:11,19 307:17,18 310:4 322:4 325:13 346:9 349:7 <b>weren't</b> 325:17 <b>West</b> 302:11 <b>Western</b> 302:11 <b>we'll</b> 311:16,19 313:15 314:1 <b>we're</b> 310:8,12 326:18 327:23 329:1 332:12 334:13 335:7 340:12,18,19 343:24 355:9 <b>we've</b> 310:10 315:13 315:15 319:25 323:23 324:3 357:4 359:6 <b>Williamson</b> 357:3,17 357:24 <b>withdraw</b> 348:23,24 <b>witness</b> 304:4 305:24 306:2,7 310:1,9,17</p>	<p>311:15 312:14 321:11,22 328:2,6 328:20 334:15 335:8,9,25 341:10 341:22 342:2,15,17 342:21,24 343:1,5,9 343:12,18,21 344:2 344:7,10,13,18,20 344:23 347:18 351:8,11 352:4,6,8 352:10 354:11 355:4 <b>witnesses</b> 303:4 310:15,17 315:13 355:7 <b>WLS</b> 346:18 <b>Wolfgang</b> 346:14 <b>Wolfman</b> 346:14,20 347:1 <b>word</b> 323:5 <b>work</b> 306:22 341:6 342:23 351:17 355:16 356:10 359:8 <b>worked</b> 318:18,20 <b>working</b> 340:19,21 340:22,25 341:5 342:19 343:11,14 344:16 353:24 <b>works</b> 339:21 342:25 345:25 <b>worksheet</b> 343:22 350:24,25 351:1 <b>worksheets</b> 339:8,11 339:12,15,16 343:19 351:20 <b>worry</b> 315:4 <b>Worth</b> 302:18 339:25 340:16 342:8,9,14 <b>wouldn't</b> 304:10 <b>write</b> 346:23 357:13 <b>written</b> 332:5,9,16 <b>WW</b> 346:16</p> <p><b>X</b></p>
--	---	--	---

# Capital Reporting Company

Page 12

<b>X</b> 303:1	<b>2005</b> 320:24	<b>360</b> 303:8
<b>Y</b>	<b>2007</b> 307:2 320:25	<b>366-5121</b> 302:7
<b>Yeah</b> 319:17 325:24	329:3	<b>4</b>
326:16 356:19	<b>2009</b> 301:13,19	<b>4</b> 304:25
<b>year</b> 308:15 320:24	310:24 314:18	<b>405</b> 302:17
320:25 355:21	316:11,12 320:20	<b>407-2363</b> 302:13
<b>years</b> 307:5,9	360:6,19	<b>5</b>
<b>yesterday</b> 304:20	<b>202</b> 302:7	<b>5</b> 356:11
325:13 332:6,24	<b>20590</b> 302:6	<b>5/12/09</b> 303:12
334:4	<b>21</b> 305:14	305:16,18 312:5
<b>young</b> 357:22	<b>22nd</b> 360:19	<b>5/17/07</b> 305:1
<b>y'all</b> 349:2,16	<b>25</b> 317:25 321:10	<b>50</b> 345:12
<b>0</b>	322:6,12 326:12	<b>55</b> 345:12
<b>09</b> 310:4	327:2,3 328:1	<b>6</b>
<b>1</b>	<b>2501</b> 302:17	<b>6/9/09</b> 303:14
<b>1</b> 308:15	<b>26</b> 303:12 305:15	<b>60</b> 321:15
<b>10,000</b> 334:11	309:25 310:2,3,6,10	<b>624</b> 301:22
<b>10,001</b> 308:2 309:12	311:2,9,10	<b>660-4433</b> 317:12
334:11 335:19	<b>28</b> 303:13 305:16,18	<b>7</b>
<b>10:15</b> 317:17	311:7,13,16,18,20	<b>7050</b> 360:22
<b>11</b> 332:11,20 343:20	311:21 312:1	<b>76102</b> 302:18
<b>11:10</b> 301:23	<b>29</b> 303:14 312:20	<b>8</b>
<b>12</b> 333:16	313:14,16,18,20,21	<b>800</b> 317:20
<b>12th</b> 310:4	<b>299-1700</b> 317:20	<b>80215</b> 302:12
<b>12-320</b> 302:5	<b>3</b>	<b>817</b> 302:18
<b>12/31/10</b> 360:22	<b>3</b> 301:12 360:5	<b>885-8500</b> 302:18
<b>12:13</b> 359:18	<b>30</b> 314:24,25	<b>9</b>
<b>1200</b> 302:6	<b>30s</b> 347:23	<b>972</b> 317:12
<b>12600</b> 302:11	<b>30th</b> 308:16	
<b>13</b> 305:3	<b>30-foot</b> 309:6,11	
<b>15</b> 305:6 356:11,11	<b>302</b> 303:3	
<b>150</b> 301:22 346:4	<b>303</b> 302:13	
<b>16</b> 305:9	<b>306</b> 303:5	
<b>17</b> 301:13 305:10	<b>31</b> 303:15 313:23	
360:6	314:1,3,5,6	
<b>17th</b> 301:19	<b>311</b> 303:12,13	
<b>17247</b> 358:1	<b>313</b> 303:14	
<b>18</b> 305:13	<b>314</b> 303:15	
<b>1997</b> 308:19	<b>32</b> 308:13	
<b>2</b>	<b>329</b> 303:6	
<b>2/24/09</b> 303:15	<b>336</b> 303:6	
	<b>350</b> 303:6	
	<b>352</b> 303:6	
	<b>359</b> 303:7	

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